

**MINUTES OF ZONING HEARING
COBB COUNTY BOARD OF COMMISSIONERS
DECEMBER 21, 2021
9:00 A.M.**

The Board of Commissioners' Zoning Hearing was held on Tuesday, December 21, 2021, in the second-floor public meeting room of Cobb County Building A, 100 Cherokee Street, Marietta, Georgia. Present and comprising a quorum of the Board were:

Lisa Cupid, Chairwoman
Commissioner Monique Sheffield
Commissioner JoAnn Birrell
Commissioner Keli Gambrell
Commissioner Jerica Richardson

CALL TO ORDER – CHAIRWOMAN CUPID

Chairwoman Cupid called the hearing to order at 9:04 a.m.

Mr. Pederson, Zoning Division Manager reviewed the hearing procedures and announced the following cases which were *withdrawn, held, or continued*.

WITHDRAWN, HELD, AND CONTINUED CASES

Z-87 **LENNAR GEORGIA, INC.** (Cynthia Lynn Bishop Fletcher and William F. Culver, owners) requesting rezoning from **R-30** to **R-20** for a single-family subdivision in land lot 298 of the 20th district. Property is located on the south side of Due West Road, west of Midway Road (4493, 4495 Due West Road).
WITHDRAWN WITHOUT PREJUDICE

SLUP-9 **SERIOUS TREE SERVICES LLC C/O WILLIAM MAZARIEGOS** (Serious Tree Services, LLC, owner) requesting a **Special Land Use Permit** for tree processing (chipping, grinding, reduction of material) in land lot 911 of the 19th district. Property is located on the north side of Flint Hill Road, and on the west side of Sanders Road (3969, 3989 Flint Hill Road). *(Previously held by the Planning Commission (PC) from the October 5, 2021, and November 2, 2021, PC hearings until the December 7, 2021, PC hearing).* **WITHDRAWN WITHOUT PREJUDICE**

Z-48 **RAY MURPHY** (Ray Murphy, owner) requesting rezoning from **GC** to **LI** for a towing and automotive wrecker service in land lots 154 and 155 of the 17th district. Property is located on the northwest side of Austell Road, at the terminus of Austell Circle (1818, 1830 Austell Road). *(Previously continued by the Planning Commission (PC) from the July 6, 2021, PC hearing until the August 3, 2021, PC hearing; held by the PC from the August 3, 2021, PC hearing until the November 2, 2021, PC hearing; held by the PC from the November 2, 2021, PC hearing until the December 7, 2021, PC hearing; continued by Staff until the February 1, 2022, PC hearing; therefore, was not considered at this hearing).*

**MINUTES OF ZONING HEARING
COBB COUNTY BOARD OF COMMISSIONERS
DECEMBER 21, 2021
PAGE 2**

WITHDRAWN, HELD, AND CONTINUED CASES (CONT.)

- Z-61** **BLUETIGER PROPERTIES, LLC** (Wellstar Health System, Inc., owner) requesting rezoning from **O&I** to **O&I** for a climate controlled self-storage facility in land lot 224 of the 20th district. Property is located on the north side of Stilesboro Road, and on the east side of Dennis Kemp Lane (Stilesboro Road). *(Previously held by the Planning Commission (PC) from the September 7, 2021, and October 5, 2021, PC hearings until the November 2, 2021, PC hearing; continued by Staff from the November 2, 2021, and December 7, 2021, PC hearings until the February 1, 2021, PC hearing; therefore, was not considered at this hearing).*
- Z-68** **TIFFANY GRAY** (TAMG Realty, Inc., owner) requesting rezoning from **R-20** to **FST** for a townhome community in land lot 1145 of the 19th district. Property is located on the east side of Brookwood Drive, north and south of the intersection of Virgil Lane, at the terminus of Bellemeade Circle, and the west side of Glore Road (Brookwood Drive). *(Previously continued by Staff from the October 5, 2021, and November 2, 2021, Planning Commission (PC) hearings until the December 7, 2021, PC hearing; continued by Staff until the February 1, 2022, PC hearing; therefore, was not considered at this hearing).*
- Z-80** **TIMOTHY G. JENKINS** (Timothy Jenkins, owner) requesting rezoning from **GC** to **R-20** for a single-family residence in land lot 142 of the 20th district. Property is located on the north side of New Rutledge Road, west of Meadowlark Lane (3218 New Rutledge Road). *(Continued by Staff until the February 1, 2022, Planning Commission hearing; therefore, was not considered at this hearing).*
- Z-83** **ST. BOURKE** (M.J. Westmoreland, Westmoreland, Inc., owner) requesting rezoning from **OS** to **RM-8** for a townhome community in land lots 390 and 391 of the 18th district. Property is located on the north side of Mableton Parkway, northwest of Hunnicut Road (6721 Mableton Parkway). *(Held by the Planning Commission (PC) until the February 1, 2022, PC hearing; therefore, was not considered at this hearing).*
- Z-88** **TAYLOR MORRISON OF GEORGIA, LLC** (Indus Group, LLC, owner) requesting rezoning from **R-20** and **O&I** to **RM-8** for a townhome community in land lot 109 of the 17th district. Property is located on the north side of Veterans Memorial Highway, on the east side of Glore Drive, at the terminus of Camilla Circle (440 Veterans Memorial Highway). *(Continued by the Planning Commission (PC) until the February 1, 2022, PC hearing; therefore, was not considered at this hearing).*

**MINUTES OF ZONING HEARING
COBB COUNTY BOARD OF COMMISSIONERS
DECEMBER 21, 2021
PAGE 3**

WITHDRAWN, HELD, AND CONTINUED CASES (CONT.)

SLUP-3 **RAY MURPHY** (Ray Murphy, owner) requesting a **Special Land Use Permit** for a towing and automotive wrecker service in land lots 154 and 155 of the 17th district. Property is located on the northwest side of Austell Road, at the terminus of Austell Circle (1818, 1830 Austell Road). *(Previously continued by the Planning Commission (PC) from the July 6, 2021, PC hearing until the August 3, 2021, PC hearing; held by the PC from the August 3, 2021, PC hearing until the November 2, 2021, PC hearing; held by the PC from the November 2, 2021, PC hearing until the December 7, 2021, PC hearing; continued by Staff until the February 1, 2022, PC hearing; therefore, was not considered at this hearing).*

SLUP-7 **BLUETIGER PROPERTIES, LLC** (Wellstar Health System, Inc., owner) requesting a **Special Land Use Permit** for a climate controlled self-storage facility in land lot 224 of the 20th district. Property is located on the north side of Stilesboro Road, and on the east side of Dennis Kemp Lane (Stilesboro Road). *(Previously held by the Planning Commission (PC) from the September 7, 2021, and October 5, 2021, PC hearings until the November 2, 2021, PC hearing; continued by Staff from the November 2, 2021, and December 7, 2021, PC hearings until the February 1, 2022, PC hearing; therefore, was not considered at this hearing).*

Z-73 **INVGRP 3 LLC** (Laurel Properties LLC, owner) requesting rezoning from **R-20** to **RA-4** for a single-family subdivision in land lots 626 and 627 of the 16th district. Property is located on the east side of Marneil Drive, south of Post Oak Tritt Road (2454 Marneil Drive). *(Continued by the Board of Commissioners (BOC) until the December 21, 2021, BOC Zoning hearing).*

Mr. Pederson presented the Applicant's request for a continuance of Z-73; thereafter, the following motion was made:

MOTION: Motion by Birrell, second by Cupid, to **continue** Z-73 until the February 15, 2022, Board of Commissioners' Zoning Hearing.

VOTE: **ADOPTED 5-0**

Mr. Pederson made the following announcements and then read into the record the cases for the Consent Agenda.

CAMPAIGN DISCLOSURE

All speakers who have made a campaign contribution totaling \$250.00 or more, within the last two years, to a local government official considering a zoning case are required to complete the "Campaign Disclosure Form" prior to speaking.

**MINUTES OF ZONING HEARING
COBB COUNTY BOARD OF COMMISSIONERS
DECEMBER 21, 2021
PAGE 4**

INFORMATION REGARDING ZONING CASES

All information regarding zoning cases must be turned in to the Zoning Office on the Wednesday prior to the zoning hearing for consideration. If said information is turned in past the deadline, then it is at the Board's discretion as to whether the information will be considered.

CONSENT AGENDA

MOTION: Motion by Cupid, second by Birrell, to **approve** the following cases on the Consent Agenda, *as revised*:

Z-72 **SERIOUS TREE SERVICES LLC C/O WILLIAM MAZARIEGOS** (Serious Tree Services, LLC, owner) requesting rezoning from **GC** and **R-80** to **HI** for tree processing in land lot 911 of the 19th district. Property is located on the north side of Flint Hill Road, and on the west side of Sanders Road (3969, 3989 Flint Hill Road). *(Previously held by the Planning Commission (PC) from the October 5, 2021, and November 2, 2021, PC hearings until the December 7, 2021, PC hearing).*

To **delete** Z-72 to the **NRC** zoning district, subject to:

1. Letter of agreeable conditions from Ellen Smith dated December 21, 2021 (attached and made a part of these minutes)
2. Special exception use of *tree contractor*; for this use *only*; for this Applicant *only*
3. Staff comments and recommendations, *not otherwise in conflict*

Clerk's Note: Commissioner Sheffield explained that no tree processing will be done at that location; instead, vehicles will be parked for the business and have an additional administrative building on the site.

Z-81 **2687 SANDY PLAINS HOLDINGS, LLC** (2687 Sandy Plains Holdings, LLC, owner) requesting rezoning from **GC** to **NRC** for a doctor's office in land lot 596 of the 16th district. The property is located on the northwest side of Sandy Plains Road, northeast of Kinjac Road (2687 Sandy Plains Road).

To **approve** Z-81 to the **NRC** zoning district, subject to:

1. Site Plan received by the Zoning Division on October 29, 2021 (attached and made a part of these minutes)
2. Fire Department comments and recommendations
3. Water and Sewer Division comments and recommendations
4. Stormwater Management Division comments and recommendations
5. Department of Transportation comments and recommendations

**MINUTES OF ZONING HEARING
COBB COUNTY BOARD OF COMMISSIONERS
DECEMBER 21, 2021
PAGE 5**

CONSENT AGENDA (CONT.)

Z-86 **SAINTS PARTNERS, LLC** (Saints Partners, LLC, owner) requesting rezoning from **GC, O&I, and TS** to **GC** for a convenience store with fuel sales in land lot 875 of the 17th district. The property is located on the north side of Windy Hill Road, on the west side of Leland Drive (2779 Windy Hill Rd).

To **approve** Z-86 to the **GC** zoning district, subject to:

- 1. Site Plan received by the Zoning Division on October 7, 2021, with the District Commissioner approving minor modifications (attached and made a part of these minutes)**
- 2. District Commissioner to approve final building elevations**
- 3. Board of Commissioners' approval of the right-of-way abandonment**
- 4. Fire Department comments and recommendations**
- 5. Water and Sewer Division comments and recommendations**
- 6. Stormwater Management Division comments and recommendations**
- 7. Department of Transportation comments and recommendations**

LUP-22 **MARLENE GRAHAM** (Marlene Graham and Clenton Dayes, owners) requesting a **Temporary Land Use Permit** for a personal care home in land lot 561 of the 16th district. The property is located on the north side of Piedmont Road, west of Shaw Road (1371 Piedmont Road).

To **approve** LUP-22 for **24 months**, subject to:

- 1. Site Plan received by the Zoning Division on September 3, 2021 (attached and made a part of these minutes)**
- 2. Fire Department comments and recommendations**
- 3. Water and Sewer Division comments and recommendations**
- 4. Stormwater Management Division comments and recommendations**
- 5. Department of Transportation comments and recommendations**

OTHER BUSINESS

O.B. 50 To consider a site plan and stipulation amendment for Brannen Cove, LLC regarding rezoning application Z-41 of 2020 in land lot 683 of the 18th district. Property is located on the northerly side of White Road (a/k/a Bob White Road), southeasterly of Factory Shoals Road (White Road). *(Previously continued by Staff from the September 21, 2021, Board of Commissioners' (BOC) Zoning hearing until the October 19, 2021, BOC Zoning hearing; Continued by the BOC from the October 19, 2021, BOC Zoning hearing until the November 16, 2021, BOC Zoning hearing; Continued by Staff from the November 16, 2021, BOC Zoning hearing until the December 21, 2021, BOC Zoning hearing).*

**MINUTES OF ZONING HEARING
COBB COUNTY BOARD OF COMMISSIONERS
DECEMBER 21, 2021
PAGE 6**

CONSENT AGENDA (CONT.)

OTHER BUSINESS (CONT.)

O.B. 50 (CONT.)

To **approve** O.B. 50, subject to:

- 1. Final site plan to be approved by the District Commissioner**
- 2. Cobb DOT comments and recommendations contained in the Other Business packet (attached and made a part of these minutes)**
- 3. Water and Sewer Division comments and recommendations contained in the Other Business packet (attached and made a part of these minutes)**
- 4. Fire Department comments and recommendations contained in the Other Business packet (attached and made a part of these minutes)**
- 5. All previous stipulations, *not otherwise in conflict*, to remain in effect**

O.B. 66 To consider a reduction of minimum public road frontage from the required 50-feet to seven feet for building 100 (western building), and setback variances as shown on the site plan for DGH 1125, LLC for property located on the south side of Ernest Barrett Parkway, and on the east side of Greers Chapel Road, in land lots 208 and 209 of the 20th district (1125 Ernest Barrett Parkway). *(Previously continued by Staff from the November 16, 2021, Board of Commissioners' (BOC) Zoning hearing until the December 21, 2021, BOC Zoning hearing).*

To **approve** O.B. 66, subject to:

- 1. Letter from Dennis Webb dated December 7, 2021 (attached and made a part of these minutes)**
- 2. Water and Sewer Division comments and recommendations contained in the Other Business packet (attached and made a part of these minutes)**
- 3. Fire Department comments contained in the Other Business packet (attached and made a part of these minutes)**

O.B. 70 To consider a stipulation amendment for Edenton Homeowners Association, Inc. regarding rezoning application Z-57 of 2015 in land lots 390 and 391 of the 16th district. Property is located at the north intersection of Shallowford Road and Wesley Chapel Road, and on the south side of Fricks Road (Shallowford Road).

To **approve** O.B. 70, subject to:

- 1. Letter from Lee B. Beitchman to David Griffin (attached and made a part of these minutes)**
- 2. County Landscape Architect to approve the final landscape plan**

**MINUTES OF ZONING HEARING
COBB COUNTY BOARD OF COMMISSIONERS
DECEMBER 21, 2021
PAGE 7**

CONSENT AGENDA (CONT.)

OTHER BUSINESS (CONT.)

- O.B. 71** To consider amending the zoning stipulations for Z-43 of 2011 regarding impervious surface for lot 51 (from 35% to 39.46% maximum impervious surface) for Paige Shuckman for property located on the south side of Lulworth Lane, south of Barnhill Drive, in land lot 601 of the 16th district (2559 Lulworth Lane).

To **approve** O.B. 71, subject to:

- 1. Stormwater Management Division comments and recommendations contained in the Other Business packet (attached and made a part of these minutes)**
- 2. All previous stipulations, *not otherwise in conflict with this amendment*, to remain in effect**

- O.B. 72** To consider a stipulation amendment for Chuck Young regarding rezoning application Z-28 of 2021 in land lots 31 and 32 of the 17th district. Property is located on the south side of White Boulevard, on the west side of Floyd Road, at the terminus of Nickajack Road, and at the terminus of Green Valley Road (4900 Floyd Road).

To **approve** O.B. 72, subject to:

- 1. Applicant's request explanation contained in the Other Business packet (attached and made a part of these minutes)**
- 2. Cobb DOT comments and recommendations contained in the Other Business packet (attached and made a part of these minutes)**
- 3. Fire Department comments and recommendations contained in the Other Business packet (attached and made a part of these minutes)**
- 4. All previous stipulations, *not otherwise in conflict*, to remain in effect**

- O.B. 73** To consider a stipulation amendment for Habitat for Humanity of Northwest Metro Atlanta, Inc. regarding rezoning application Z-65 of 2021 in land lots 494 and 495 of the 18th district. Property is located at the southeast corner of Hillcrest Drive and Ridgefield Drive (Hillcrest Drive).

To **approve** O.B. 73, subject to:

- 1. Letter of agreeable conditions from Rob Hosack dated December 15, 2021 (attached and made a part of these minutes)**
- 2. All previous stipulations, *not in conflict*, to remain in effect**
- 3. Email correspondence from Rob Hosack to William H. Rowling dated December 16, 2021 (attached and made a part of these minutes)**

**MINUTES OF ZONING HEARING
COBB COUNTY BOARD OF COMMISSIONERS
DECEMBER 21, 2021
PAGE 8**

CONSENT AGENDA (CONT.)

OTHER BUSINESS (CONT.)

O.B. 74 To consider a stipulation amendment for WHOY Associates, LLC regarding rezoning application Z-62 of 2000 in land lot 132 of the 20th district. Property is located at the southeast side of Chastain Road, north of Big Shanty Road (1111 Chastain Road).

To **approve** O.B. 74, subject to:

- 1. Applicant's Exhibit "B" contained in the Other Business packet (attached and made a part of these minutes)**
- 2. List of Prohibited Uses (attached and made a part of these minutes)**
- 3. No drive-thru**
- 4. If there is a patio outside, patio for outdoor seating, it shall be located at the front of the property at Chastain Road**
- 5. Final Site Plan to be approved by the District Commissioner**
- 6. Fire Department comments and recommendations contained in the Other Business packet (attached and made a part of these minutes)**
- 7. All previous stipulations, *not in conflict*, to remain in effect**

Prior to the Consent Vote, Mr. Pederson announced that other cases were to be added to the Consent Agenda. Commissioner Gambrell requested that Z-84 (St. Bourke) be added to the Consent Agenda; however, opposition was present, so Z-84 remained on the Regular Agenda. Later in the hearing, the issues were resolved, and Z-84 was added to the Consent Agenda (see page 11 of these minutes for the motion).

Mr. Pederson read Z-56 (Traton, LLC), Z-69 (Connelly Land Group, LLC), and Z-89 (Tyler Chandler Homes, LLC) into the record. There was no opposition present. Commissioner Sheffield read in her stipulations, and then each case was added to the Consent Agenda.

Z-56 **TRATON, LLC** (Calvert Investments, LLLP, owner) requesting rezoning from **LI** to **FST** for a townhome community in land lot 1216 of the 19th district. Property is located at the southern terminus of South Cobb School Road, the southern terminus of Linda Vista Drive, and the eastern terminus of Leila Street (South Cobb School Road). *(Previously continued by Staff until the September 7, 2021, Planning Commission (PC) hearing; continued by the PC until the October 5, 2021, PC hearing; held by the PC until the November 2, 2021, PC hearing; continued by the Board of Commissioners (BOC) until the December 21, 2021, BOC Zoning hearing).*

To **delete** Z-56 to the **RA-5** zoning district, subject to:

- 1. All Department of Transportation (DOT) traffic study comments are to be addressed during Plan Review**

MINUTES OF ZONING HEARING
COBB COUNTY BOARD OF COMMISSIONERS
DECEMBER 21, 2021
PAGE 9

CONSENT AGENDA (CONT.)

Z-56 TRATON, LLC (CONT.)

2. Letter of agreeable conditions from J. Kevin Moore dated December 15, 2021 (attached and made a part of these minutes), with the following changes:
 - A. Item No. 7 – revise to read: *“Homes (front only) to contain a 50% minimum of exterior materials to include brick, stone, or stacked stone.”*
 - B. Item No. 10 – revise to include: *“Monument sign to include wired up-lights.”*
 - C. Item No. 14 – revise to include: *“Amenity package to be approved by the District Commissioner; sidewalks shall be installed on both sides of the street within the development.”*
3. Final Site Plan and elevations to be approved by the District Commissioner
4. All other Staff comments and recommendations, *not otherwise in conflict*

MOTION: Motion by Sheffield, second by Birrell, to **add** Z-56 to the Consent Agenda as previously read in.

VOTE: **ADOPTED 5-0**

Z-69 CONNELLY LAND GROUP, LLC (Shares Holding, L.L.C.; SH/Stroud Road, LLC; Bennett Hutchinson, IV, owner) requesting rezoning from **R-15** and **R-20** to **RA-6** for a single-family subdivision in land lots 391 and 392 of the 18th district. Property is located on the north side of Hunnicut Road, on the east side of Rioca Circle, northeast of Mableton Parkway (245, 309, 335 Hunnicut Road). *(Previously continued by Staff from the October 5, 2021, and November 2, 2021, Planning Commission (PC) hearings until the December 7, 2021 PC hearing).*

To **delete** Z-69 to the **R-15/OSC** zoning district, subject to:

1. Letter of agreeable conditions from J. Kevin Moore dated December 15, 2021 (attached and made a part of these minutes), with the following changes:
 - A. Item No. 4 – revise to read: *“Exterior façades (front only) shall consist of a 50% minimum of brick, stone, and/or stacked stone.”*
 - B. Item No. 11 – revise to include: *“Entrance signage shall also include wired up-lights.”*
 - C. Item No. 15 – revise to read: *“Applicant agrees to construct internal sidewalks on both sides of the streets of the development.”*

**MINUTES OF ZONING HEARING
COBB COUNTY BOARD OF COMMISSIONERS
DECEMBER 21, 2021
PAGE 10**

CONSENT AGENDA (CONT.)

Z-69 CONNELLY LAND GROUP, LLC (CONT.)

2. Lot #24 shall be swapped with the green space to the south of lot #16
3. The detention pond access strip to be relocated to the east side of lot #25
4. If blasting of rock is required, the blasting plan to be reviewed by the District Commissioner with input from adjacent homeowners
5. The Developer will make every effort to reduce development on slopes greater than 25% as plans are finalized in Plan Review
6. Final Site Plan and elevations to be approved by the District Commissioner
7. All Staff comments and recommendations, *not otherwise in conflict*

MOTION: Motion by Sheffield, second by Birrell, to **add** Z-69 to the Consent Agenda as previously read in.

VOTE: **ADOPTED 5-0**

Z-89 TYLER CHANDLER HOMES, LLC (Estate of Ronald Goldin Jones, owner) requesting rezoning from **R-20** to **RSL** for a residential senior living, non-supportive development in land lot 979 of the 19th district. Property is located on the west side of Austell Powder Springs Road, south of Old Austell Road (4210 Austell Powder Springs Road).

To **approve** Z-89 to the **RSL** zoning district, subject to:

1. Letter of agreeable conditions from **J. Kevin Moore** dated December 15, 2021 (attached and made a part of these minutes), with the following changes:
 - A. Item No. 6 – revise to read: “*A 50% minimum of brick, stone, and/or stacked stone on the home’s façade (front only).*”
 - B. Item No. 7 – revise to include: “*Homeowner’s Association (HOA) shall be responsible for building maintenance, repair, and insurance.*”
 - C. Item No. 9 – revise to include: “*wired up-lights*”
2. Final Site Plan and elevations to be approved by the District Commissioner
3. All Staff comments and recommendations, *not otherwise in conflict*

MOTION: Motion by Sheffield, second by Birrell, to **add** Z-89 to the Consent Agenda as previously read in.

VOTE: **ADOPTED 5-0**

CONSENT VOTE: **ADOPTED 5-0**

**MINUTES OF ZONING HEARING
COBB COUNTY BOARD OF COMMISSIONERS
DECEMBER 21, 2021
PAGE 11**

Chairwoman Cupid called for a brief recess from 9:36 a.m. until 9:40 a.m.

REGULAR AGENDA

Z-38 WINDSONG PROPERTIES (Ronald H. Mulkey and Lisa L. Mulkey, owners) requesting rezoning from **R-30** to **RSL** for residential senior living, non-supportive residential in land lots 179 and 180 of the 20th district. Property is located on the south side of Ellis Road, on the east side of Mack Dobbs Road, southeast of the intersection of Ellis Road and Mack Dobbs Road (3180 Ellis Road). *(Previously continued by Staff from the June 1, 2021, Planning Commission (PC) hearing until the July 6, 2021, PC hearing; held by the PC from the July 6, 2021, through the October 5, 2021, PC hearings until the November 2, 2021, PC hearing; continued by the Board of Commissioners (BOC) until the December 21, 2021, BOC Zoning hearing).*

The public hearing was opened; Garvis L. Sams, Jr., Sharon Cobb, Daryl Cook, and Henry Massie addressed the Board. Following the presentation and discussion, the following motion was made:

MOTION: Motion by Gambrill, second by Birrell, to **hold** Z-38 until the February 15, 2022, Board of Commissioners' Zoning Hearing.

Clerk's Note: Commissioner Gambrill gave direction for the Applicant to come back with an R-20/OSC plan, with a maximum of 58 lots, and to ensure that site plans are given to the Commissioner and the community prior to the next hearing.

VOTE: **ADOPTED 5-0**

Chairwoman Cupid called for a brief recess from 10:32 a.m. until 10:38 a.m.

CONSENT AGENDA (CONT.)

Following the recess, Mr. Pederson announced that the issues with Z-84 (St. Bourke) had been resolved; therefore, Mr. Pederson read Z-84 into the record, Commissioner Gambrill read in her stipulations and made the motion to add Z-84 to the Consent Agenda.

Z-84 ST. BOURKE (West Holdings I, LLC, owner) requesting rezoning from **PRD** to **R-20** for a single-family subdivision in land lot 265 of the 20th district. Property is located on the south side of Fords Road, west of Red Rock Road (5959 Fords Road).

MOTION: Motion by Gambrill, second by Cupid, to **add** Z-84 to the Consent Agenda, subject to:

**MINUTES OF ZONING HEARING
COBB COUNTY BOARD OF COMMISSIONERS
DECEMBER 21, 2021
PAGE 12**

CONSENT AGENDA (CONT.)

Z-84 ST. BOURKE (CONT.)

To **approve** Z-84 to the **R-20** zoning district, subject to:

- 1. Planning Commission comments and recommendations (attached and made a part of these minutes)**
- 2. District Commissioner to approve the final grading application**

VOTE: ADOPTED 5-0

MOTION: Motion by Cupid, second by Birrell, to **approve** the Consent Agenda, *as revised with the addition of Z-84.*

VOTE: ADOPTED 5-0

REGULAR AGENDA (CONT.)

By general consensus, Z-78 and SLUP-11 (St. Benedict's Episcopal School) were heard concurrently but voted on separately.

Z-78 ST. BENEDICT'S EPISCOPAL SCHOOL (Cooper Lake-Daniel, LLC, owner) requesting rezoning from **O&I** and **R-20** to **O&I** for a school in land lot 695 of the 17th district. Property is located on the east and north side of Daniel Street, on the west side of Cooper Lake Road (2001 Daniel Street, 2235 Cooper Lake Road). *(Continued by the Planning Commission (PC) from the November 2, 2021, PC hearing until the December 7, 2021, PC hearing).*

SLUP-11 ST. BENEDICT'S EPISCOPAL SCHOOL (Cooper Lake-Daniel, LLC, owner) requesting a **Special Land Use Permit** for a school in land lot 695 of the 17th district. Property is located on the east and north side of Daniel Street, on the west side of Cooper Lake Road (2001 Daniel Street, 2235 Cooper Lake Road). *(Continued by the Planning Commission (PC) from the November 2, 2021, PC hearing until the December 7, 2021, PC hearing).*

The public hearing was opened; Kevin Moore, Brian Daughdrill, and Abdul Amer addressed the Board. Following the presentation and discussion, the following motion was made:

MOTION: Motion by Richardson, second by Gambrill, to **hold** Z-78 until the February 15, 2022, Board of Commissioners' Zoning Hearing.

VOTE: ADOPTED 5-0

MINUTES OF ZONING HEARING
COBB COUNTY BOARD OF COMMISSIONERS
DECEMBER 21, 2021
PAGE 13

REGULAR AGENDA (CONT.)

**Z-78 & ST. BENEDICT'S EPISCOPAL SCHOOL (CONT.)
SLUP-11**

Clerk's Note: Commissioner Richardson requested the following from the Applicant at the next hearing:

1. Presentation to include an analysis on the impact of the traffic
2. Provide a full traffic mitigation plan
3. Consideration of what a "phased approach" to an enrollment of 240 students would look like, if permissible
4. Presentation to include the additional list of Planning Commission's recommendations not included in the Applicant's stipulation letter

MOTION: Motion by Richardson, second by Birrell, to **hold** SLUP-11 until the February 15, 2022, Board of Commissioners' Zoning Hearing.

VOTE: **ADOPTED 5-0**

Clerk's Note: Commissioner Richardson requested the same recommendations for SLUP-11 as those noted in Z-78.

Z-82 CM HOLDING COMPANY, LLC (Kofer Properties, Inc., owner) requesting rezoning from **CRC** and **LRO** to **CRC** for restaurants and light auto repair in land lot 58 of the 17th district. Property is located on the south side of Windy Hill Road, on the west side of Arkose Drive (749 Windy Hill Road, 2410 Arkose Drive).

The public hearing was opened; Parks Huff and Lisa Eagen addressed the Board. Following the presentation and discussion, the following motion was made:

MOTION: Motion by Sheffield, second by Birrell, to **delete** Z-82 to the **NRC** zoning district, subject to:

1. The detention pond area be fenced with black vinyl clad chain link fencing, a minimum of six feet in height, and landscaping to be to the exterior of fencing for purposes of visual screening; landscaping to be approved by the County Arborist during the Plan Review process
2. Sidewalks to be installed along the frontage of Arkose Drive
3. There shall be additional buffering along the frontage of Arkose Drive to mitigate any headlights that may shine into the home across the driveway from the establishment

**MINUTES OF ZONING HEARING
COBB COUNTY BOARD OF COMMISSIONERS
DECEMBER 21, 2021
PAGE 14**

REGULAR AGENDA (CONT.)

Z-82 CM HOLDING COMPANY, LLC (CONT.)

4. In the event there is a shift in the driveway, which will be determined during Plan Review, additional buffering shall be required along the frontage of Arkose Drive to provide additional protection to the homeowner who lives across the street from the entrance of the driveway
5. The location of the driveway, determined during Plan Review, is to have final approval by the District Commissioner
6. *Prohibited uses* to include any auto related businesses, *including but not limited to* the following:
 - A. Auto Lube establishments
 - B. Tire Shops
 - C. Car Emissions
 - D. Auto Paint and Body Shops
 - E. Wrecker Services
7. *Other prohibited uses* include the following:
 - A. Dollar Stores
 - B. Discount Stores
 - C. General Merchandise/Close-out Stores
 - D. Pawn Shops
 - E. Vape & Smoke Shops
 - F. Massage & Tattoo Parlors
 - G. Day & Night Clubs
8. All other Staff comments and recommendations, *not otherwise in conflict*

VOTE: **ADOPTED 5-0**

Chairwoman Cupid called for a lunch recess at 12:13 p.m. The hearing reconvened at 1:01 p.m.

Z-85 LOT ONE HOMES (The Edna E. Miller Revocable Trust, owner) requesting rezoning from **R-20** to **RA-5** for a single-family subdivision in land lots 455 and 482 of the 16th district. Property is located on the east side of Trickum Road, north of Sandy Plains Road (3150 Trickum Road).

The public hearing was opened; Garvis L. Sams, Jr., Alison Smith, and Chris Lindstrom addressed the Board. Following the presentation and discussion, the following motion was made:

**MINUTES OF ZONING HEARING
COBB COUNTY BOARD OF COMMISSIONERS
DECEMBER 21, 2021
PAGE 15**

REGULAR AGENDA (CONT.)

Z-85 LOT ONE HOMES (CONT.)

MOTION: Motion by Birrell, second by Cupid, to **delete** Z-85 to the **RA-4** zoning district, subject to:

1. Letters of agreeable conditions from Garvis L. Sams, Jr. dated December 13, 2021 and December 14, 2021, with *revised* site plan included (attached and made a part of these minutes)
2. Letter from Chris Lindstrom of East Cobb Civic Association (ECCA) dated December 16, 2021 (attached and made a part of these minutes)
3. 15-feet between homes
4. The Open Space to be designated as Conservation Easement in perpetuity, with the County Arborist to determine tree replacement
5. The irrigation systems at the entrances and final Landscape Plan to be reviewed by ECCA and Hillcrest Oaks representatives, approved by the County Arborist, with final approval by the District Commissioner
6. Final Site Plan to be reviewed by ECCA and Hillcrest Oaks representatives, with final approval by the District Commissioner
7. No variances for the Developer
8. Planning Commission comments and recommendations, *not otherwise in conflict* (attached and made a part of these minutes)
9. All Staff comments and recommendations, *not otherwise in conflict*

VOTE: **ADOPTED 5-0**

OTHER BUSINESS

O.B. 75 To consider a stipulation and site plan amendment for Mt. Bethel Christian Academy, Inc. regarding case SLUP-11 (Mt. Bethel United Methodist Church, Inc.) of 2013. The property is located on the north side of Post Oak Tritt Road, west of Holly Springs Road, in land lots 599, 600, 625, and 626 of the 16th district (2509 Post Oak Tritt Road).

The public hearing was opened; Kevin Moore and Richard Grome addressed the Board. Following the presentation and discussion, the following motion was made:

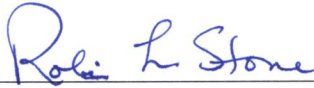
MOTION: Motion by Birrell, second by Gambrill, to **hold** O.B. 75 until the February 15, 2022, Board of Commissioners' Zoning Hearing.

VOTE: **ADOPTED 5-0**

**MINUTES OF ZONING HEARING
COBB COUNTY BOARD OF COMMISSIONERS
DECEMBER 21, 2021
PAGE 16**

ADJOURNMENT

The hearing adjourned at 2:01 p.m.



Robin L. Stone, Deputy County Clerk
Cobb County Board of Commissioners

MOORE INGRAM JOHNSON & STEELE

A LIMITED LIABILITY PARTNERSHIP
WWW.MIJS.COM

MARIETTA, GEORGIA
EMERSON OVERLOOK
326 ROSWELL STREET
SUITE 100
MARIETTA, GEORGIA 30060
TELEPHONE (770) 429-1499

KNOXVILLE, TENNESSEE
408 N. CEDAR BLUFF ROAD
SUITE 500
KNOXVILLE, TENNESSEE 37923
TELEPHONE (865) 692-9039

JACKSONVILLE, FLORIDA
10201 CENTURION PARKWAY N.
SUITE 401
JACKSONVILLE, FLORIDA 32256
TELEPHONE (904) 428-1465

BRENTWOOD, TENNESSEE
5300 MARYLAND WAY
SUITE 200
BRENTWOOD, TENNESSEE 37027
TELEPHONE (615) 425-7347

LEXINGTON, KENTUCKY
771 CORPORATE DRIVE
SUITE 430
LEXINGTON, KENTUCKY 40503
TELEPHONE (859) 309-0028

ORLANDO, FLORIDA
7380 WEST SAND LAKE ROAD
SUITE 500
ORLANDO, FLORIDA 32819
TELEPHONE (407) 367-6233

HARRISBURG, PENNSYLVANIA
3909 HARTZDALE DRIVE
SUITE 901
CAMP HILL, PENNSYLVANIA 17011
TELEPHONE (717) 790-2854

December 15, 2021

Via E-mail Only

Min. Bk. 94 Petition No. Z-56
Doc. Type letter
Meeting Date 12-21-21

Mr. John P. Pederson, AICP
Zoning Division Manager
Zoning Division
Cobb County Community Development Agency
Suite 400
1150 Powder Springs Road
Marietta, Georgia 30064

RE: Application for Rezoning - Application No. Z-56 (2021)
Applicant: Traton, LLC
Property Owner: Calvert Investments, LLLP
Property: 25.187 acres, more or less, located southerly
 of the terminus of South Cobb School Road
 and Linda Vista Drive and at the terminus of
 Leila Street, Land Lot 1217, 19th District,
 2nd Section, Cobb County, Georgia

Dear John:

The undersigned and this firm represent Traton, LLC, the Applicant (hereinafter "Applicant"); as well as, Calvert Investments, LLLP, the Property Owner (hereinafter "Owner" or "Property Owner"), in their Application for Rezoning with regard to property located southerly of the terminus of South Cobb School Road and Linda Vista Drive and at the terminus of Leila Street, being 25.187 acres, more or less, located in Land Lot 1217, 19th District, 2nd Section, Cobb County, Georgia (hereinafter the "Property" or "Subject Property"). After meetings and discussions with Cobb Planning and Zoning Staff and various Cobb County Department representatives, Staff, and Officials; ongoing meetings and discussions with area residents; reviewing the Departmental Comments and Staff Recommendations; as well as, the uses of surrounding properties; and following the presentation to and hearing before the Cobb County Planning Commission, we have been authorized by the Applicant to submit this revised letter of agreeable stipulations and conditions which, if the Application for Rezoning is approved, as submitted, shall become a part of the grant of the requested zoning and shall be binding upon the Subject Property. This letter shall supersede and replace in full all previous letters of agreeable stipulations and conditions

Mr. John P. Pederson, AICP
Zoning Division Manager
Zoning Division
Cobb County Community Development Agency
Page 2 of 6
December 15, 2021

submitted on behalf of Applicant for the proposed development. The proposed, revised stipulations are as follows:

- (1) The stipulations and conditions set forth herein shall replace and supersede in full any and all prior stipulations and conditions, in whatsoever form, which are currently in place on the Subject Property; together with any and all prior Departmental Comments and Staff Recommendations submitted by Planning, Fire, Water, Sewer, and Drainage, relating to the Subject Property from any previous zoning actions.
- (2) Applicant seeks rezoning of the Subject Property from the existing zoning classification of Light Industrial ("LI") to the proposed zoning classification of RA-5, site plan specific to the revised Zoning Plan prepared for Applicant by Ridge Planning and Engineering, dated and last revised September 17, 2021, and previously submitted to the Cobb Zoning Division. A reduced copy of the revised Zoning Plan is attached as Exhibit "A" for reference.
- (3) By submission of this letter of agreeable stipulations and conditions and the referenced, revised Zoning Plan, Applicant amends its Application to seek rezoning of the Subject Property from the originally proposed Fee Simple Townhome ("FST") zoning classification to the proposed RA-5 zoning classification.
- (4) The Subject Property consists of 25.187 acres and will be developed for a single-family, detached, residential community, containing a maximum of seventy-nine (79) residences.
- (5) The residences within the proposed community shall have a minimum of 1,800 square feet of heated and cooled living space.
- (6) The proposed residences shall be Traditional and Craftsman in style and architecture and shall have a minimum two-car, attached garage.
- (7) Homes in the proposed community shall contain a combination of exterior materials to include brick, stone, stacked stone, cedar shake, board and batten, traditional lap-siding, and hard-plank; and shall be substantially similar to the elevations attached collectively as Exhibit "B" in terms of exterior materials, finishes, and level of quality.

Mr. John P. Pederson, AICP
Zoning Division Manager
Zoning Division
Cobb County Community Development Agency
Page 3 of 6
December 15, 2021

- (8) No garage areas of homes within the proposed community shall be converted into heated living space or permanent storage areas for the homes. All garages shall be used primarily for the parking of vehicles with only incidental storage that does not interfere with parking for vehicles. Such restriction shall be included in the Declaration of Covenants, Easements, and Restrictions.
- (9) The setbacks for the proposed residential community shall be as more particularly shown and reflected on the revised Zoning Plan.
- (10) Entrance signage shall be ground based, monument-style signage, and shall consist of brick, stone, stacked stone, or combinations thereof, with accents, and other materials complementary to and comparable with materials comprising the exterior of the proposed residences. Entrance landscaping shall be professionally designed, implemented, and maintained. Maintenance of the entrance area shall be by the mandatory homeowners association as set forth in the Declaration of Covenants, Easements, and Restrictions.
- (11) Applicant agrees to the creation of a mandatory homeowners association consistent with communities within the area. The mandatory homeowners association shall be responsible for the upkeep and maintenance of all entrance areas, common areas, open space areas, amenity area, mail kiosk, school bus waiting area, landscaping around detention areas, and the like, contained within the proposed residential community.
- (12) Additionally, and in conjunction with the creation of the mandatory homeowners association, Applicant agrees to the recording and enforcement of a Declaration of Covenants, Easements, and Restrictions which will contain covenants, rules, and regulations applicable to the proposed development.
- (13) Applicant agrees there shall be established a restrictive covenant which limits the number of homes which can be leased or rented at any one time to a maximum of ten (10) percent of the total number of homes.
- (14) The community shall have an active amenity area consisting of, at a minimum, a pool and cabana.
- (15) Street lighting within the proposed community shall be environmentally sensitive, decorative, and themed to the architecture and style of the residences, as offered by the power provider.

Mr. John P. Pederson, AICP
Zoning Division Manager
Zoning Division
Cobb County Community Development Agency
Page 4 of 6
December 15, 2021

- (16) Applicant agrees to the designation of a school bus waiting area for the pick-up and drop-off for children of residents within the proposed community. This area shall be shown on the final Zoning Plan presented for approval during the Plan Review Process. This area shall be maintained by the mandatory homeowners association.
- (17) Applicant agrees to the creation and establishment of a Landscape Review Committee consisting of a representative of Applicant and/or Developer and/or Owner, a representative of the Mableton Improvement Coalition, and a representative of the Cobb County Community Development Agency. The Landscape Review Committee shall be responsible for the review and approval of the landscape, fencing plans, and buffering; as well as, the frontage landscaping.
- (18) Applicant agrees to provide a twenty (20) foot undisturbed and landscaped buffer along the northern and eastern property lines adjacent to existing residential property. The first ten (10) feet of such buffer shall be undisturbed, with the second ten (10) feet being landscaped to provide for visual screening.
- (19) To accommodate the twenty (20) foot undisturbed and landscaped buffer, affected lots shall have a minimum fifteen (15) foot front setback with a twenty (20) foot rear setback, as more particularly shown on the Lot Layout attached as Exhibit "C."
- (20) Access to the proposed community from Leila Street shall be gated, emergency access only. In the event applicable Fire Codes are modified which do not require a second emergency access for the proposed community, the proposed emergency access will be removed from the revised Site Plan. However, there will remain no access to Leila Street.
- (21) All landscaping referenced herein shall be approved by the Cobb County Arborist as part of the Plan Review Process and incorporated into the overall landscape plan for the proposed community.
- (22) Detention facilities shall be screened by black, vinyl-clad chain link fencing, or black wrought iron-type fencing. The fencing shall be six (6) feet in height with landscaping around the entire exterior of the fencing for purposes of visual screening. All vegetation and landscaping surrounding the detention areas shall be maintained by the mandatory homeowners association.

Mr. John P. Pederson, AICP
Zoning Division Manager
Zoning Division
Cobb County Community Development Agency
Page 5 of 6
December 15, 2021

- (23) Minor modifications to the within stipulations, the referenced, revised Zoning Plan, lighting, signage, landscaping, architecture, site features, and the like, may be approved by the District Commissioner, as needed or necessary, except for those that:
- (a) Increase the density of a residential project or the overall square footage of a non-residential project;
 - (b) Reduce the size of an approved buffer adjacent to a property that is zoned the same or in a more restrictive zoning district;
 - (c) Relocate a structure closer to the property line of an adjacent property that is zoned the same or in a more restrictive zoning district;
 - (d) Increase the height of a building that is adjacent to a property that is zoned the same or in a more restrictive zoning district;
 - (e) Change an access location to a different roadway;
 - (f) Would be in direct contradiction or conflict with any of the stipulations of this rezoning;
 - (g) Would be in direct contradiction or conflict with Cobb County Code and Ordinances; or
 - (h) Would be in direct contradiction or conflict with any Staff Recommendations that were adopted into the final zoning decision.
- (24) All setbacks, landscape, and buffer areas may be penetrated for purposes of access, utilities, and stormwater management, including, but not limited to, drainage facilities and any and all slopes or other required engineering features of the foregoing. Any disturbed areas must be replanted with like vegetation.

We believe the requested zoning, pursuant to the revised Zoning Plan and the revised stipulations set forth herein, is an appropriate use of the Subject Property while taking into consideration the existing conditions of the Property, the residents and communities surrounding the Property, and the community and area surrounding the proposed development as a whole. The proposed community shall be a quality development, as established by Applicant in previous developments

MOORE INGRAM JOHNSON & STEELE

Petition No. 2-56
Meeting Date 12-21-21
Continued

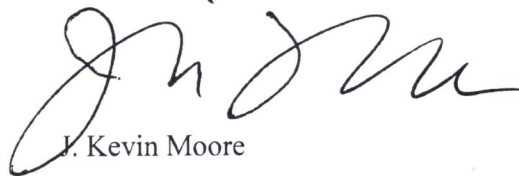
Mr. John P. Pederson, AICP
Zoning Division Manager
Zoning Division
Cobb County Community Development Agency
Page 6 of 6
December 15, 2021

in Cobb County and the Metropolitan Atlanta area, and shall provide a much-needed and highly sought-after type of community within the Cobb County area. Thank you for your consideration in this request.

With kindest regards, I remain

Very truly yours,

MOORE, INGRAM, JOHNSON & STEELE, LLP



J. Kevin Moore

JKM:cc

Attachments

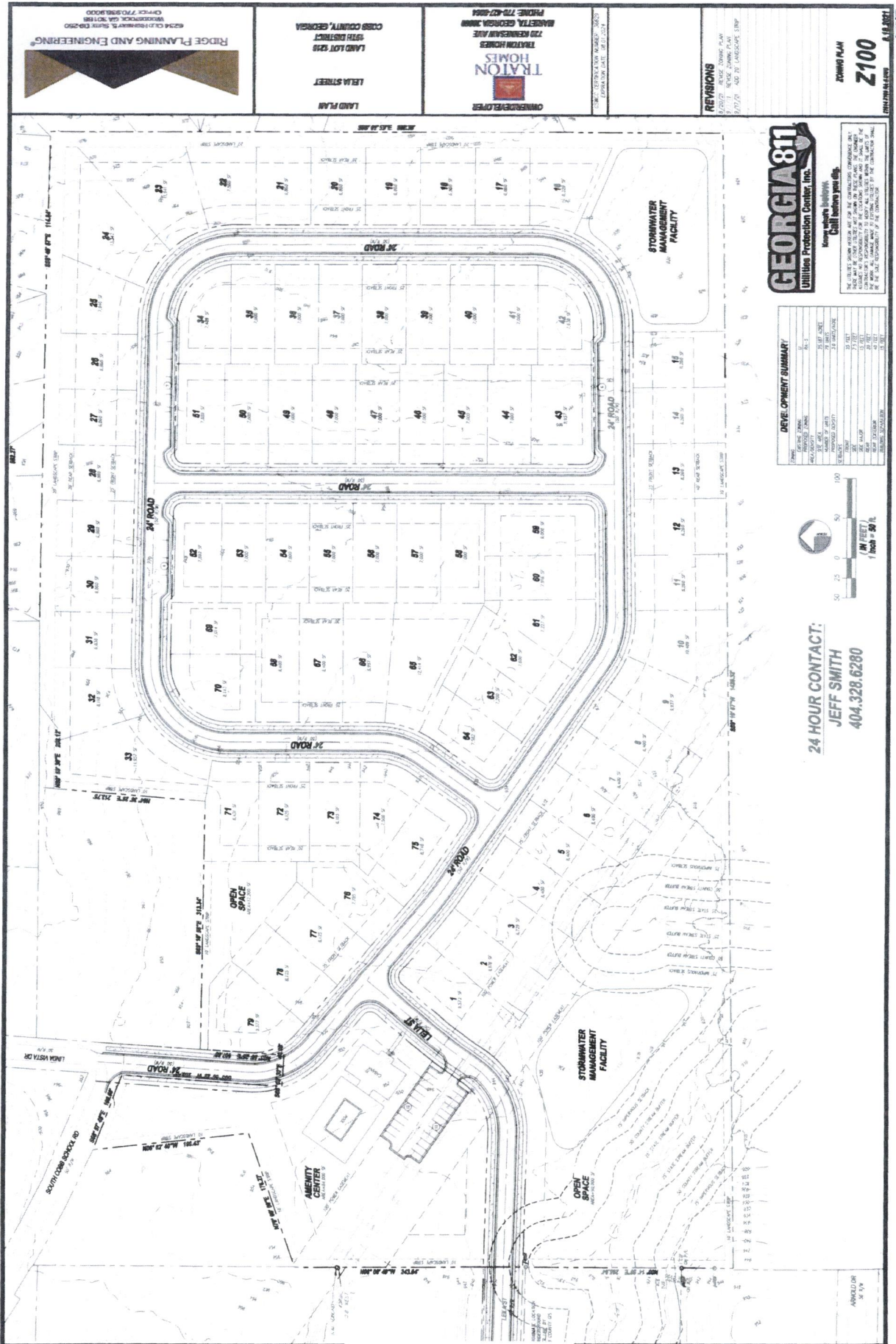
c: Cobb County Board of Commissioners:

Lisa N. Cupid, Chairwoman
JoAnn Birrell
Keli A. Gambrill
Jerica Richardson
Monique Sheffield
(With Copies of Attachments)

Jeannie Peyton
Senior Planner
Zoning Division
Cobb County Community Development Agency
(With Copies of Attachments)

Mableton Improvement Coalition
(With Copies of Attachments)

Traton, LLC
(With Copies of Attachments)



GEORGIA 811
 Utilities Protection Center, Inc.

DEVELOPMENT SUMMARY

Category	Quantity	Notes
Lot Area	1,234,567 sq. ft.	
Lot Count	82	
Open Space	10,000 sq. ft.	
Stormwater Management	2	
Amenity Center	1	
Other	0	



24 HOUR CONTACT:
 JEFF SMITH
 404.328.6280

RIDGE PLANNING AND ENGINEERING
 6024 CLEVELAND AVE. SUITE 200
 KENNESAW, GA 30144
 PHONE: 770.427.8000

LAND PLAN
 LAND LOT 1215
 COBB COUNTY, GEORGIA

TRATION HOMES
 770 KENNESAW AVE.
 KENNESAW, GA 30144
 PHONE: 770.427.8000

REVISIONS

NO.	DATE	DESCRIPTION
1	12/21/21	INITIAL PLAN

Z100
 PLANNING

EXHIBIT "A"

Petition No. 2-56
Meeting Date 12-21-21
Continued



EXHIBIT "B"

Petition No. 2-56
Meeting Date 12-21-21
Continued



Petition No. 2-56
Meeting Date 12-21-21
Continued



Petition No. Z-56
Meeting Date 12-21-21
Continued



Petition No. Z-56
Meeting Date 12-21-21
Continued



Petition No. 2-56
Meeting Date 12-21-21
Continued



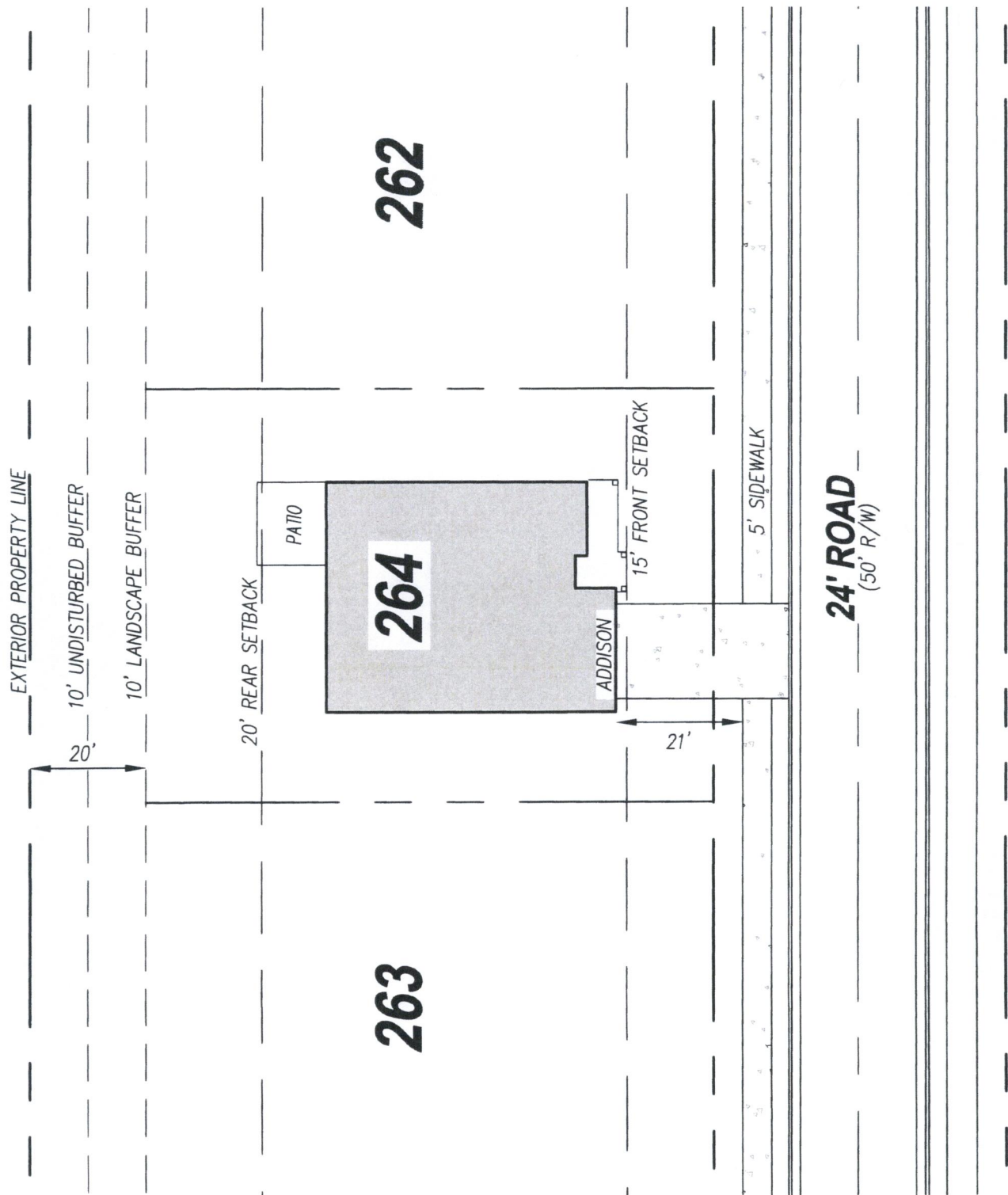


EXHIBIT "C"

MOORE INGRAM JOHNSON & STEELE

A LIMITED LIABILITY PARTNERSHIP
WWW.MIJS.COM

MARIETTA, GEORGIA
EMERSON OVERLOOK
326 ROSWELL STREET
SUITE 100
MARIETTA, GEORGIA 30060
TELEPHONE (770) 429-1499

KNOXVILLE, TENNESSEE
406 N. CEDAR BLUFF ROAD
SUITE 500
KNOXVILLE, TENNESSEE 37923
TELEPHONE (865) 692-9039

JACKSONVILLE, FLORIDA
10201 CENTURION PARKWAY N.
SUITE 401
JACKSONVILLE, FLORIDA 32256
TELEPHONE (904) 428-1465

BRENTWOOD, TENNESSEE
5300 MARYLAND WAY
SUITE 200
BRENTWOOD, TENNESSEE 37027
TELEPHONE (615) 425-7347

LEXINGTON, KENTUCKY
771 CORPORATE DRIVE
SUITE 430
LEXINGTON, KENTUCKY 40503
TELEPHONE (859) 309-0026

ORLANDO, FLORIDA
7380 WEST SAND LAKE ROAD
SUITE 500
ORLANDO, FLORIDA 32819
TELEPHONE (407) 367-6233

HARRISBURG, PENNSYLVANIA
3909 HARTZDALE DRIVE
SUITE 901
CAMP HILL, PENNSYLVANIA 17011
TELEPHONE (717) 790-2854

December 15, 2021

Via E-mail Only

Min. Bk. 94 Petition No. Z-69
Doc. Type Letter
Meeting Date 12-21-21

Mr. John P. Pederson, AICP
Zoning Division Manager
Zoning Division
Cobb County Community Development Agency
Suite 400
1150 Powder Springs Road
Marietta, Georgia 30064

RE: Application for Rezoning - Application No.: Z-69 (2021)
 Applicant: Connelly Land Group LLC
 Property Owners: SH/Stroud Road, LLC and
 Shares Holding, L.L.C.
 Property: 17.72 acres, more or less, located on the
 northerly side of Hunnicutt Road, easterly of
 Mableton Parkway, Land Lots 391 and 392,
 18th District, 2nd Section, Cobb County,
 Georgia

Dear John:

The undersigned and this firm represent Connelly Land Group LLC, the Applicant (hereinafter "Applicant"), and the Property Owner, SH/Stroud Road, LLC and Shares Holding, L.L.C. (hereinafter collectively "Owners" or "Property Owners"), in their Application for Rezoning with regard to a total tract of 17.72 acres, more or less, located on the northerly side of Hunnicutt Road, easterly of Mableton Parkway, Land Lots 391 and 392, 18th District, 2nd Section, Cobb County, Georgia (hereinafter referred to as the "Property" or the "Subject Property"). After meetings and discussions with Planning and Zoning Staff and Cobb County Departmental representatives; ongoing meetings and communications with area residents and homeowner representatives; reviewing the Departmental Comments and Staff Recommendations; reviewing the uses of surrounding properties; and following the presentation to and hearing before the Cobb County Planning Commission, we have been authorized by the Applicant to submit this revised letter of agreeable stipulations and conditions, which, if the Application for Rezoning is

Mr. John P. Pederson, AICP
Zoning Division Manager
Zoning Division
Cobb County Community Development Agency
Page 2 of 6
December 15, 2021

approved, as submitted, shall become a part of the grant of the requested zoning and shall be binding upon the Subject Property. This letter shall supersede and replace in full the previous letter of agreeable stipulations and conditions dated and submitted on December 1, 2021. The proposed, revised stipulations are as follows:

- (1) The stipulations and conditions set forth herein shall replace and supersede in full any and all prior stipulations and conditions, in whatsoever form, which are currently in place on the Subject Property; together with any and all prior Departmental Comments and Staff Recommendations submitted by Planning, Fire, Water, Sewer, Stormwater Management, and Drainage relating to the Subject Property from any previous zoning actions.
- (2) Rezoning of the Subject Property shall be from the existing zoning classifications of R-20 and R-15 to the proposed zoning classification of R-15, Open Space Community ("R-15/OSC"), site plan specific to the revised Rezoning Site Plan ("Site Plan") prepared for Applicant by Civil Consulting Engineers, Inc., dated and last revised December 13, 2021, and submitted contemporaneously with this revised letter of agreeable stipulations and conditions. A reduced copy of the revised Site Plan is attached to this stipulation letter as Exhibit "A" and incorporated herein by reference.
- (3) The Subject Property consists of 17.72 acres, more or less, and shall be developed for a single-family residential community containing a maximum of thirty-two (32) residences. The proposed development shall contain approximately 9.34 acres of dedicated open space, which exceeds the minimum open space required of thirty-five (35) percent.
- (4) The proposed residences shall be Traditional or Craftsman in style and architecture and shall have exterior facades consisting of brick, stone, stacked stone, stucco-type, masonry siding, cedar shake shingles, hardi-plank, board and batten, cementitious siding, and combinations thereof, with complementary accents. The homes within the proposed community shall be substantially similar to the elevations attached collectively as Exhibit "B."
- (5) The homes shall have two-car garages. No garage areas within the proposed residences shall be converted into heated living space for the homes. All garages shall be used primarily for the parking of vehicles with only incidental storage that does not interfere with parking for vehicles. Such restriction shall be included in the Declaration of Covenants, Easements, and Restrictions.

Mr. John P. Pederson, AICP
Zoning Division Manager
Zoning Division
Cobb County Community Development Agency
Page 3 of 6
December 15, 2021

- (6) The proposed homes shall have a minimum of 2,000 square feet, upwards to 2,400 square feet, or greater.
- (7) All homes within the proposed community shall be "for sale" units. There shall be no more than a maximum of ten (10) percent of the homes being leased at any one time.
- (8) Applicant agrees to the recording and enforcement of a Declaration of Covenants, Easements, and Restrictions which shall contain covenants, rules, and regulations applicable to the proposed community, including the ten percent rental restriction and garage use restriction.
- (9) Additionally, and in conjunction with the Declaration of Covenants, Easements, and Restrictions, Applicant agrees to the creation of a mandatory homeowners association which shall be responsible for the upkeep and maintenance of the entrance area, signage, all common areas, open space area, stormwater management landscape areas, general landscaped areas, mail kiosk, fencing, and the like contained within the community.
- (10) Street lighting within the proposed community shall be environmentally sensitive, decorative, and themed to the architecture and style of the proposed residences, as allowed by the power provider.
- (11) The entrance signage for the proposed community shall be ground based, monument-style signage, and shall consist of brick, stone, stacked stone, stucco, or combinations thereof, with accents consistent with the architecture and style of the residences within the community.
- (12) The entrance landscaping shall be professionally designed, implemented, and maintained. Maintenance of the entrance area shall be by the mandatory homeowners association as set forth in the Declaration of Covenants, Easements, and Restrictions.
- (13) Setbacks for the proposed community shall be as set forth on the revised Site Plan.

Mr. John P. Pederson, AICP
Zoning Division Manager
Zoning Division
Cobb County Community Development Agency
Page 4 of 6
December 15, 2021

- (14) The amenity area for the proposed community shall consist of, at a minimum, a community gathering area and structure (i.e., pavilion, fire pit, or gazebo) for the residents and their guests; as well as, passive open areas.
- (15) Applicant agrees to construct an internal sidewalk along one side of the streets within the proposed community which shall connect to exterior street sidewalks, if available.
- (16) All utilities servicing the residences within the proposed community shall be located underground.
- (17) Minor modifications to the within stipulations, the referenced, revised Site Plan, lighting, landscaping, architecture, site features, signage, and the like, may be approved by the District Commissioner, as needed or necessary, except for those that:
 - (a) Increase the density of a residential project or the overall square footage of a non-residential project;
 - (b) Reduce the size of an approved buffer adjacent to a property that is zoned the same or in a more restrictive zoning district;
 - (c) Relocate a structure closer to the property line of an adjacent property that is zoned the same or in a more restrictive zoning district;
 - (d) Increase the height of a building that is adjacent to a property that is zoned the same or in a more restrictive zoning district;
 - (e) Change an access location to a different roadway;
 - (f) Would be in direct contradiction or conflict with any of the stipulations of this rezoning;
 - (g) Would be in direct contradiction or conflict with Cobb County Code and Ordinances; or
 - (h) Would be in direct contradiction or conflict with any Staff Recommendations that were adopted into the final zoning decision.

Mr. John P. Pederson, AICP
Zoning Division Manager
Zoning Division
Cobb County Community Development Agency
Page 5 of 6
December 15, 2021

- (18) Applicant states that in the event applicable Fire Codes are modified which do not require a second emergency access for the proposed community, the proposed emergency access will be removed from the revised Site Plan.
- (19) All landscaping referenced herein; including, but not limited to, the frontage, entrance area, and the like, shall be approved by the Cobb County Arborist as part of the Plan Review Process and incorporated into the overall landscape plan for the proposed community.
- (20) Detention and water quality facilities for the proposed community shall be as shown and reflected on the revised Site Plan, unless approved otherwise by Cobb County Stormwater Management. Said facilities shall be screened by black, vinyl-clad chain link fencing, a minimum of six (6) feet in height with landscaping to the exterior of the fencing for purposes of visual screening. The landscaping shall be approved by the Cobb County Arborist during the Plan Review Process. All vegetation and landscaping surrounding the detention areas shall be maintained by the mandatory homeowners association. The detention areas will comply in design and capacity requirements of Cobb County Stormwater Management.
- (21) Applicant agrees to comply with all Cobb County Stormwater Management requirements applicable to the Subject Property.
- (22) All setbacks, landscape, and buffer areas may be penetrated for purposes of access, utilities, and stormwater management; including, but not limited to, drainage and detention facilities and any and all slopes or other required engineering features of the foregoing.
- (23) Applicant agrees to the following system improvements to mitigate traffic concerns:
 - (a) Installation of deceleration lane for ingress into the proposed community; and
 - (b) Installation of left-turn lane on Hunnicutt Road at entrance area.

We believe the requested zoning, together with the revised Site Plan and the revised stipulations set forth herein, is an appropriate use of the Subject Property while taking into consideration developments and uses of properties in the surrounding area. The proposed residential

MOORE INGRAM JOHNSON & STEELE

Petition No. Z-69
Meeting Date 12-21-21
Continued

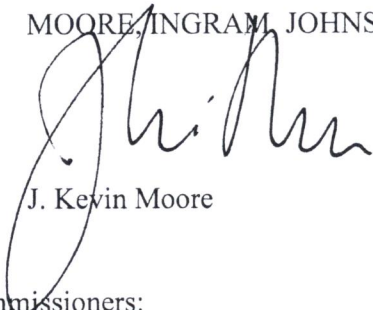
Mr. John P. Pederson, AICP
Zoning Division Manager
Zoning Division
Cobb County Community Development Agency
Page 6 of 6
December 15, 2021

community shall be a quality development, shall be compatible with surrounding neighborhoods, and shall be an enhancement to the Subject Property and the community as a whole. Thank you for your consideration in this request.

With kindest regards, I remain

Very truly yours,

MOORE INGRAM JOHNSON & STEELE, LLP


J. Kevin Moore

JKM:cc

Attachments

c: Cobb County Board of Commissioners:
Lisa N. Cupid, Chairwoman
JoAnn Birrell
Keli A. Gambrill
Jerica Richardson
Monique Sheffield
(With Copies of Attachments)

Jeannie Peyton
Senior Planner
Zoning Division
Cobb County Community Development Agency
(With Copies of Attachments)

Robin Meyer
Mableton Improvement Coalition
(With Copies of Attachments)

Mary Rose Barnes
(With Copies of Attachments)

Connelly Land Group LLC
(With Copies of Attachments)

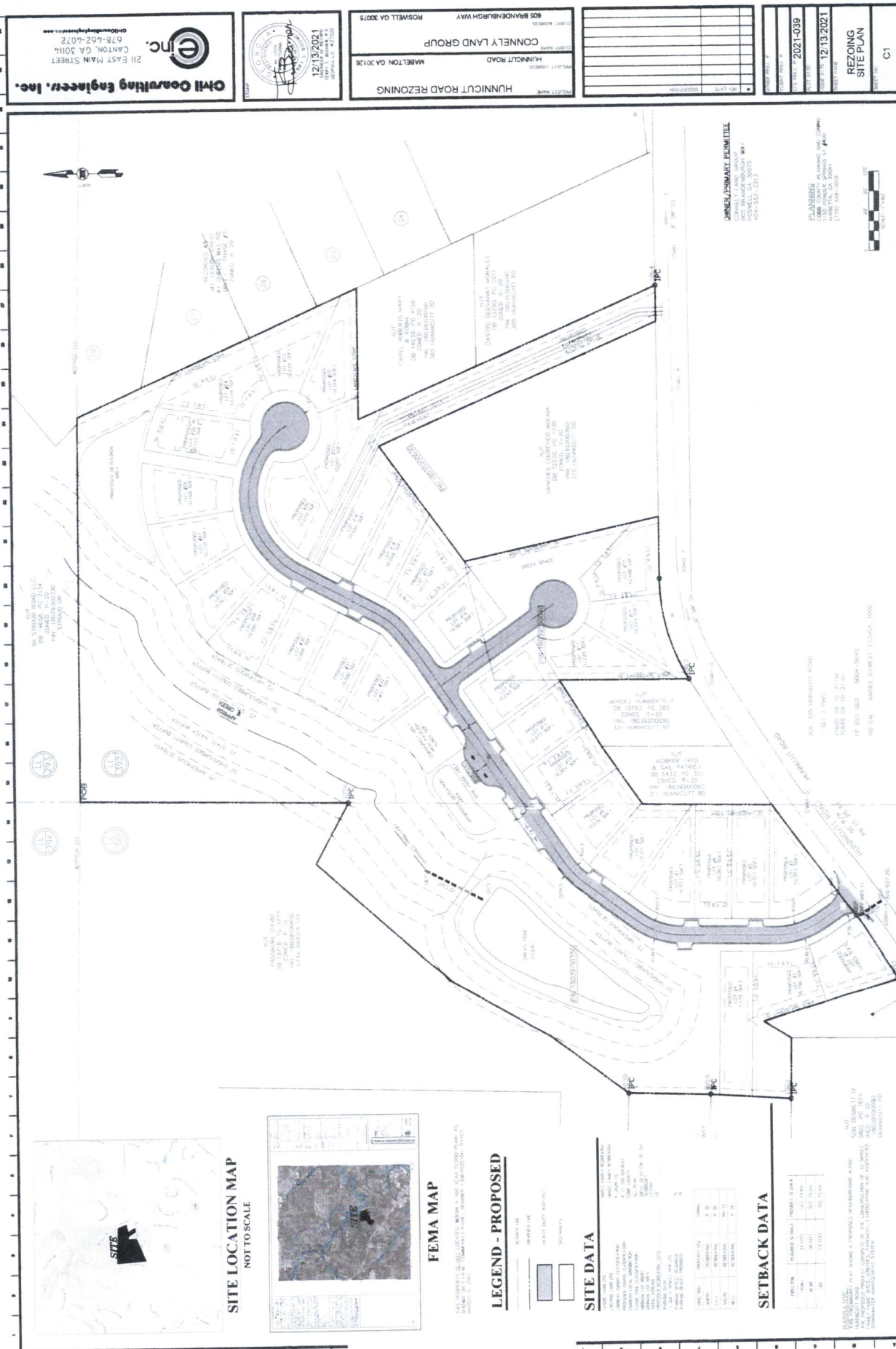


EXHIBIT "B"



"The Julianne"

4 BEDROOMS
3-1/2 BATHS

Crawford Creek HomeBuilders



CRAWFORD CREEK
HOMEBUILDERS



"The Ashley I"

5 BEDROOMS
3 BATHS

Crawford Creek HomeBuilders



CRAWFORD CREEK
HOMEBUILDERS



"The Laurel 1"

4 BEDROOMS
2-1/2 BATHS

Crawford Creek HomeBuilders



CRAWFORD CREEK
HOMEBUILDERS



"The Scarlett I"

5 BEDROOMS
3 BATHS

Crawford Creek HomeBuilders



CRAWFORD CREEK
HOMEBUILDERS



Crawford Creek HomeBuilders



**CRAWFORD CREEK
HOMEBUILDERS**



Min. Bk. 94 Petition No. Z-72
Doc. Type Letter
Meeting Date 12-21-21

Ellen W. Smith
Partner
t: 678.690.5720
f: 404.869.6972
ellensmith@parkerpoe.com

Atlanta, GA
Charleston, SC
Charlotte, NC
Columbia, SC
Greenville, SC
Raleigh, NC
Spartanburg, SC
Washington, DC

December 21, 2021

Via Email and Hand Delivery

Mr. John Pederson
Zoning Division Manager
Cobb County Community Development
1150 Powder Springs St, Ste 400
Marietta, GA 30064

Re: **Application for Rezoning, Z-72-2021 ("Application")** by Serious Tree Services, LLC ("**Applicant**") with respect to that certain approximately 17.7 acres of unimproved property located at 3969 and 3989 Flint Hill Road (the "**Property**")

SECOND REVISED LETTER OF STIPULATIONS

Dear John:

As you know, this law firm has the pleasure of representing Applicant with respect to this Application. Previously, by letter dated September 29, 2021, Applicant submitted (i) a revised site plan meeting all DOT and other comments in the staff report for this Application and (ii) proposed stipulations and conditions to which it would agree if the Application, and its corresponding application for Special Land Use Permit (SLUP-9) to allow wood chipping to occur on site. After further review of departmental and staff recommendations and discussions with area residents, the Applicant withdrew its application for SLUP-9 and submitted a revised letter of stipulations dated December 7, 2021. On December 7, the Planning Commission unanimously recommended approval of LI rezoning for the Property.

After further discussion with staff and the District Commissioner, Applicant submits this Second Revised Letter of Stipulations which, if the Application is approved as submitted, shall become a part of the grant of the requested zoning and binding upon the Property. Therefore, at this time the proposed revised stipulations to which Applicant agrees are:

1. The stipulations and conditions set forth herein shall replace and supersede any and all prior stipulations and conditions, in whatsoever form, which are currently in place on the Property (including any prior issued Special Land Use Permits), together with any and all prior Departmental Comments and Staff Recommendations submitted by Planning, Fire, Water, Sewer, Stormwater Management and Drainage relating to the Property from any previous zoning actions.

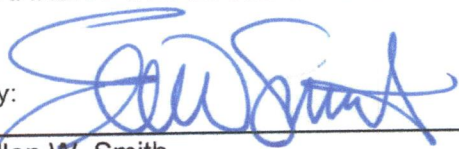
Mr. John Pederson
December 21, 2021
Page 2

2. Rezoning of the Property shall be from the existing zoning classifications of GC and R-80 to the proposed zoning classification of NRC with a special exception use as a contractor's office, parking and storage, with reference to the Rezoning Plan for Serious Tree Services prepared by Paul Lee Consulting Engineering Associates, Inc., last revised September 8, 2021 and dated September 28, 2021 by Mark G. Lee, RPLS, submitted to the County on September 29, 2021 (the "**Site Plan**"), and with a variance to allow parking on gravel (pervious, verses paved, impervious). A reduced copy of the Site Plan is attached to this stipulation letter as Exhibit "A" and incorporated herein by reference.
3. Donation of right of way on the west side of Sanders Road, a minimum of 25 feet from the roadway centerline.
4. Set back gate a minimum of 75 feet from the right of way on Flint Hill Road.
5. Maintain all existing vegetation not located in driveway, parking areas, or building areas shown on the 3989 Flint Hill Road parcel as depicted on the Site Plan.
6. Applicant's use of the Property for contractor's office and ancillary purposes, truck and equipment parking in designated areas as shown on the Site Plan and storage; provided however, there will be no operation of wood chipping equipment on the Property. Applicant's business operating hours may be between the hours of 7 a.m. to 7 p.m. Monday through Saturday.

We believe the revised rezoning recommendation of NRC with the special exception use and stipulations set forth above will allow an appropriate use of the Property while taking in to consideration the surrounding zoning, development and use of properties in the surrounding area. Thank you for your thoughtful consideration of this Application.

Very truly yours,

PARKER POE ADAMS & BERNSTEIN LLP

By: 

Ellen W. Smith

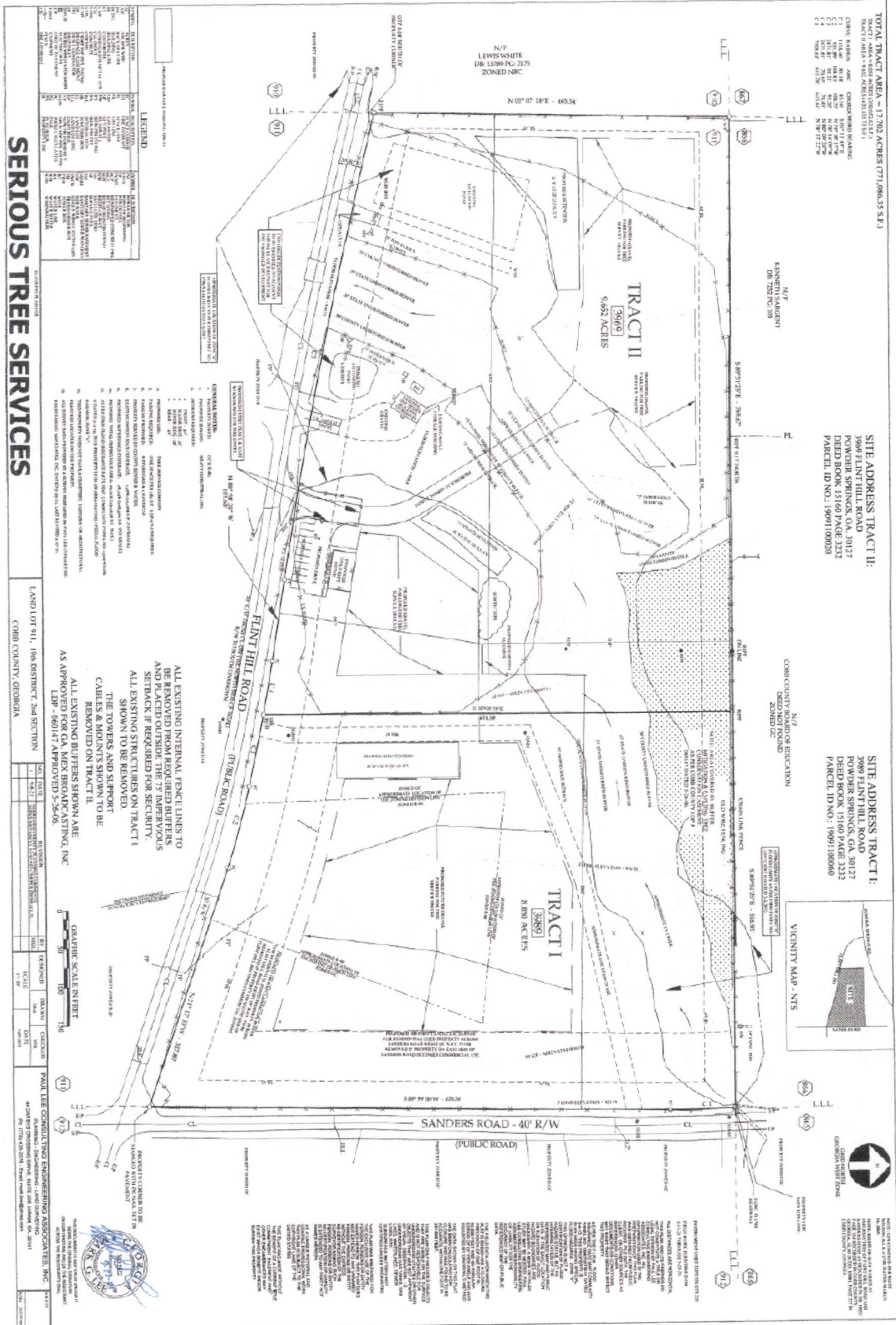
EWS

Enclosure

cc: Cobb County Board of Commissioners
Mr. William Mazariegos
Ms. Estela Corvalan
Mr. and Mrs. Carnahan
Ms. Anita Payne

EXHIBIT A

Petition No. Z-72
Meeting Date 12-21-21
Continued



Min. Bk. 94 Petition No. Z-84
Doc. Type Planning Commission
Comments from 12-7-21 for Z-84
Meeting Date 12-21-21

**MINUTES OF ZONING HEARING
COBB COUNTY PLANNING COMMISSION
DECEMBER 7, 2021
9:00 A.M.**

The Planning Commission Zoning Hearing was held on Tuesday, December 7, 2021, in the second-floor public meeting room of Cobb County Building A, 100 Cherokee Street, Marietta, Georgia. Present and comprising a quorum of the Commission were:

Fred Beloin – Chairman
David Anderson
Deborah Dance
Michael Hughes
Stephen Vault

CALL TO ORDER – CHAIRMAN BELOIN

Chairman Beloin called the hearing to order at 9:02 a.m.

REGULAR AGENDA (CONT.)

Z-84 **ST. BOURKE** (West Holdings I, LLC, owner) requesting rezoning from **PRD** to **R-20** for a single-family subdivision in land lot 265 of the 20th district. Property is located on the south side of Fords Road, west of Red Rock Road (5959 Fords Road).

The public hearing was opened; Dan Mason, Skip Anglin, Andy Oglesby, Peter Everett, and Jackie Belwood addressed the Planning Commission. Following the presentation and discussion, the following motion was made:

MOTION: Motion by Beloin, second by Hughes, to recommend **approval** of Z-84 to the **R-20** zoning district, subject to:

1. Letter of agreeable conditions from Dan Mason dated December 2, 2021 (on file in the Zoning Division), *specifically agreeing to:*
 - A. 30-foot undisturbed buffer to the south along lots 15 through 18
 - B. Increase in the rear setbacks from 35-feet to 65-feet
2. All Staff comments and recommendations

VOTE: **ADOPTED 5-0**



SAMS, LARKIN & HUFF

A LIMITED LIABILITY PARTNERSHIP
SUITE 100

376 POWDER SPRINGS STREET
MARIETTA, GEORGIA 30064-3448

GARVIS L. SAMS, JR.

JOEL L. LARKIN

PARKS F. HUFF

Min. Bk. 94 Petition No. Z-85
Doc. Type letter of 12-13-2021

Meeting Date 12-21-21

770•422•7016

TELEPHONE

770•426•6583

FACSIMILE

December 13, 2021

**(REVISED LETTER OF AGREEABLE STIPULATIONS/CONDITIONS,
ARCHITECTURAL IMAGERY & REVISED SITE PLAN)**

VIA EMAIL & HAND DELIVERY

Mr. John P. Pederson, AICP, Manager
Cobb County Zoning Division
Community Development Agency
1150 Powder Springs Road, Suite 400
Marietta, GA 30064

Re: Application of Lot One Homes, Inc. to Rezone a 4.406 Acre Tract from R-20 to
RA-4 (No. Z-85 [2021])

Dear John:

This firm represents the Applicant, Lot One Homes, Inc. ("Lot One") concerning the above-captioned and revised Application for Rezoning. The Application was heard in its original form by the Planning Commission ("PC") on December 7, 2021 wherein it received unanimous recommendation for Approval and is presently scheduled to be considered for final action by the Cobb County Board of Commissioners ("BOC") on December 21, 2021.

The property at issue ("Subject Property") is located on the east side of Trickum Road, north of Sandy Plains Road; is contiguous to Hillcrest Oaks Subdivision which is zoned in the RA-4 district; bounded on the north by R-20 tracts; and, is across Trickum Road from commercial tracts which are located southwest of the Subject Property.

At the PC Hearing on December 2, 2021, the PC recommended deleting the request to the RA-4 zoning district from the proposed RA-5 district at a maximum of 10 lots. In that regard, Lot One revised its proposal accordingly.

Lot One's proposal is now to rezone the Subject Property from R-20 to RA-4 as recommended by the PC for purposes of the construction and development of a maximum of ten (10) homes. The Future Land Use Map ("FLUM") designation is Low Density Residential ("LDR") which anticipates densities up to 2.5 units per acre. Lot One's revised proposal, at a density of 2.27 units per acre, is clearly within the LDR range. Additionally, Lot One's proposal

VIA EMAIL & HAND DELIVERY

Mr. John P. Pederson, AICP, Manager
Cobb County Zoning Division
Community Development Agency
December 13, 2021
Page 2

includes an average lot size of 9,000 square feet (RA-4 lot minimums are 8,400 square feet) which is larger than a preponderance of the adjoining lots in Hillcrest Oaks Subdivision.¹

Also, to reiterate the foregoing and in accordance with recommendations from the PC, attached to this letter is a copy of the revised site plan depicting RA-4. The requisite number of the full-sized copies will be hand delivered to your office tomorrow.

This letter will serve as Lot One's Revised expression of agreement with the following stipulations which shall become conditions and a part of the grant of the requested rezoning and which shall be binding upon the Subject Property thereafter. The referenced Revised stipulations are as follows, to wit:

1. The Revised stipulations and conditions set forth herein shall replace and supersede in full any and all prior stipulations and conditions in whatsoever form which are currently in place concerning the property which constitutes the subject matter of the above-captioned Application for Rezoning.
2. The Subject Property shall be developed in substantial conformity to that certain Revised Zoning Site Plan (depicting RA-4) prepared by DGM Land Planning Consultants which reflects a maximum of ten (10) single family residences and which is being submitted concurrently herewith.
3. The architectural style and composition of the homes shall have front elevation architecture consisting of a combination/mixture of brick, stone, cedar shake, cementious siding, and board and batten. The side elevations shall consist of brick watertables with cementious siding above; and, the rear elevations, where abutting homes located within the Hillcrest Oaks Subdivision, will have brick watertables with cementious siding above.

¹ For demonstrative purposes, attached are copies of the Revised Site Plan as mentioned above; an aerial photograph depicting the Subject Property in its immediate surroundings; an excerpt from the County's Zoning Map; and, an excerpt from the County's FLUM.

VIA EMAIL & HAND DELIVERY

Mr. John P. Pederson, AICP, Manager
Cobb County Zoning Division
Community Development Agency
December 13, 2021
Page 3

Said homes shall be in substantial conformity to the architectural imagery which was submitted with the Application for Rezoning and which is being re-submitted concurrently herewith. The District Commissioner shall have final review of the architectural style and composition of the homes.

The homes to be constructed within the proposed residential community shall range from a minimum of 2,650 square feet up to 3,150 square feet and possibly greater. Thus, price points will be commensurate with market rates regarding homes of that size.

4. The installation of ten-foot (10') and 15-foot (15'), respectively, landscape screening buffers along the northern property line and a ten-foot (10') landscape screening buffer along the southern property line. The type, species, etc. of plantings within those buffers will be subject to review and approval by the County Arborist with the final review and approval by the District Commissioner as a part of an overall landscape plan.

Additionally, the subdivision entrance will have ground-based monument style signage and shall be landscaped and irrigated.

5. The inclusion of the following comments and recommendations from ECCA:
 - a. The plat shall reflect variances, if any.
 - b. Internal sidewalks.
 - c. Any planned berms and landscaping.
 - d. The yards for the homes shall be sodded on all four sides.
 - e. All homes shall have two-car garages, which shall remain available for parking and incidental storage. Garages cannot be converted into living space or used solely for storage. Such restrictions shall be recorded on the deeds.
 - f. Applicant agrees to the creation of a mandatory homeowner's association

VIA EMAIL & HAND DELIVERY

Mr. John P. Pederson, AICP, Manager
Cobb County Zoning Division
Community Development Agency
December 13, 2021
Page 4

which shall be responsible for the upkeep and maintenance of the entrance area, signage, all common areas, open space, stormwater management landscape areas, general landscaped areas, mail kiosk, and the like within the community.

- g. The construction site will be considered a “clean” work area with loose debris disposed of each evening.
 - h. Construction trucks and work vehicles shall be parked on the site. No stacking of trucks or vehicles along Trickum Road nor within the Hillcrest Oaks subdivision.
 - i. A tire washing station shall be provided at the exit from the property during the development and construction of the project.
 - j. A 24-hour contact number shall be provided to surrounding neighborhoods and posted onsite during the construction period.
 - k. Development and construction hours for the project shall be limited to 8:00 a.m. to 7:00 p.m. Monday through Friday; 9:00 a.m. to 6:00 p.m. Saturday; and, no work shall be permitted on Sunday unless approved by the District Commissioner.
6. Compliance with following recommendations from the Cobb County Department of Transportation (“DOT”), as follows, to wit:
- a. The voluntary donation and conveyance of right-of-way forty feet (40’) from the centerline of Trickum Road along the Subject Property’s frontage thereon.
 - b. Parallel guest parking along the proposed subdivision right-of-way which serves all of the lots within the proposed community as well as detention and open space areas.
 - c. In lieu of the installation of a deceleration lane, providing a shorter taper and/or improvement of the radius between 35-50 feet, to be determined during Plan Review.

VIA EMAIL & HAND DELIVERY

Mr. John P. Pederson, AICP, Manager
Cobb County Zoning Division
Community Development Agency
December 13, 2021
Page 5

7. Compliance with recommendations from the Cobb County Fire Marshal's Office with respect to Fire Prevention and Life Safety issues.

With respect to guest parking required by the Fire Marshal, the length of the driveways serving the homes shall be thirty-five feet (35') and will be constructed not only to accommodate additional cars for the length of the driveway but with also with respect to the width for two (2) additional vehicles to park and for two (2) vehicles within the garage which shall be available to accommodate at least two (2) vehicles at all times.

8. Compliance with recommendations from the County Water System pertaining to water and sewer availability and locations for access. Lot One has obtained off-site sewer easements for purposes of accessing sewer from two (2) adjacent home owners).
9. Compliance with the recommendations from the Stormwater Management Division with respect to detention, water quality, stormwater management, percentage of impervious surfaces and downstream considerations.
10. The District Commissioner shall have the authority to approve certain minor modifications to the site plan, the architecture and these stipulations/conditions as the development proposal proceeds through the Plan Review Process and thereafter, except for those that:
 - a. Reduce the size of an approved buffer adjacent to property which is zoned in a more restrictive zoning district.
 - b. Relocate a structure closer to the property line to an adjacent property which is zoned in a more restrictive zoning district.
 - c. Increase the height of a building adjacent to property which is zoned in a more restrictive zoning district.
 - d. Change access location to different roadways.
 - e. Seek additional Variances to provisions of the Cobb County Zoning Ordinance.

SAMS, LARKIN & HUFF

A LIMITED LIABILITY PARTNERSHIP

Petition No. Z-85
Meeting Date 12-21-21
Continued

VIA EMAIL & HAND DELIVERY

Mr. John P. Pederson, AICP, Manager
Cobb County Zoning Division
Community Development Agency
December 13, 2021
Page 6

Please do not hesitate to contact me should you or your Staff require any further information or documentation prior to this Application being heard and considered by the BOC next week. With kind regards and best wishes for the Holiday Season, I am

Very truly yours,

SAMS, LARKIN & HUFF, LLP



Garvis L. Sams, Jr.
gsams@samslarkinhuff.com

GLS, Jr./jac
Enclosures/Attachments

cc: Members, Cobb County Board of Commissioners (via email w/attachments)
Members, Cobb County Planning Commission (via email w/attachments)
Dr. Jackie McMorris, County Manager (via email w/attachments)
Board of Commissioners Assistants (via email w/attachments)
Ms. Jessica Guinn, AICP, Director Cobb County Community Development Agency
(via email w/attachments)
Ms. Jeannie Peyton, Senior Planner (via email w/attachments)
Mr. Terry Martin, Planner III (via email w/attachments)
Mr. Donald Wells, Planner II (via email w/attachments)
Ms. Margie Vazquez, Planner II (via email w/attachments)
Mr. LeDarius Scott, Planner I (via email w/attachments)
Ms. Pamela Mabry, County Clerk (via email w/attachments)
Ms. Robin Stone, Deputy County Clerk (via email w/attachments)
Ms. Leila Washington, Deputy County Clerk (via email w/attachments)
Capt. Josh Davis, Cobb County Fire Marshal's Office (via email w/attachments)
Ms. Amy Diaz, P.E., Cobb DOT (via email w/attachments)
Ms. Abby Rettig, Cobb DOT (via email w/attachments)
Mr. Carl Carver, P.E., Stormwater Management Division (via email w/attachment)
Mr. Tim Davidson, Cobb Water System (via email w/attachments)
Ms. Chris Lindstrom, ECCA Vice President (via email w/attachments)

SAMS, LARKIN & HUFF

A LIMITED LIABILITY PARTNERSHIP

Petition No. Z-85
Meeting Date 12-21-21
Continued

VIA EMAIL & HAND DELIVERY

Mr. John P. Pederson, AICP, Manager
Cobb County Zoning Division
Community Development Agency
December 13, 2021
Page 7

Mr. Brian Dennis (via email w/attachments)

Mr. David G. Meyer, LA, DGM Land Planning Consultants, (via email w/attachments)

Petition No. Z-85
 Meeting Date 12-21-21
 Continued

DGM
 LAND PLANNING
 CONSULTANTS



1635 Old Hwy 41
 Suite 112-314
 KENNESAW
 GA 30152
 770 514-9006
 FAX 514-9491

RA-4 Preliminary Sketch Plan

3150 Trickum Road Community

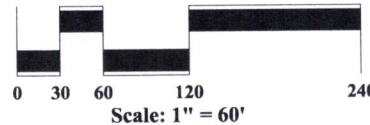
Cobb County, Georgia

Land Lot 455 and 482, 16th District, 2nd Section

prepared for:

Lot One Homes

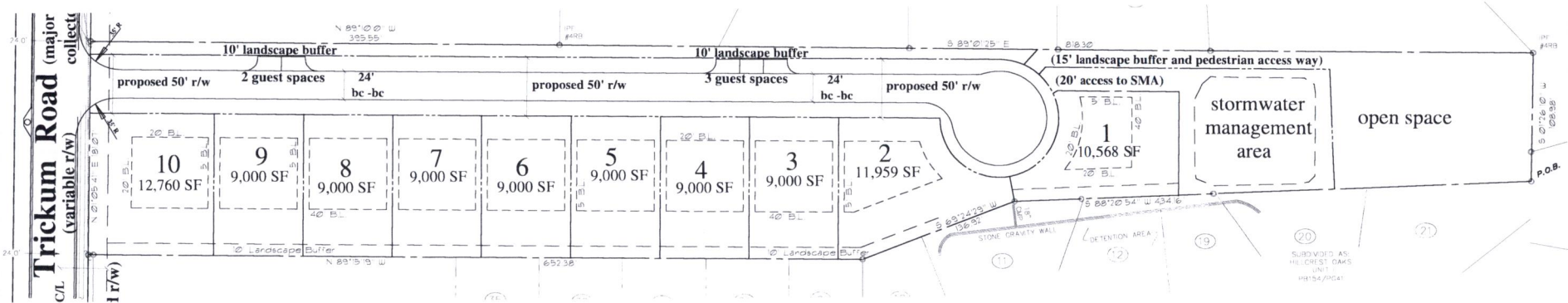
5825 Glenridge Drive
 Sandy Springs, Georgia 30328



December 6, 2021

Site Data

Total Site Area:	4.406 AC	RA-4 Building Setbacks:
Total lots shown:	10	front: 20'
Existing Zoning:	R-20	side: 5' (20' if exterior)
Proposed Zoning:	RA-4	rear: 40' (30' if interior)
Net Density:	2.27 UN/AC	
Minimum Lot Size:	8,400 SF	





Z-85 for Dec 2021 - Lot One Homes - Trickum - AERIAL Road



Petition No. Z-85
Meeting Date 12-21-21
Continued



400.0 0 200.00 400.0 Feet

WGS_1984_Web_Mercator_Auxiliary_Sphere
© Cobb County Georgia

This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.

THIS MAP IS NOT TO BE USED FOR NAVIGATION

Map Notes:

1:2,400



Z-85 for Dec 2021 - Lot One Homes - Trickum Road - ZONING

Petition No. 2-85
Meeting Date 12-21-21
Continued



Map Notes:



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This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.

THIS MAP IS NOT TO BE USED FOR NAVIGATION

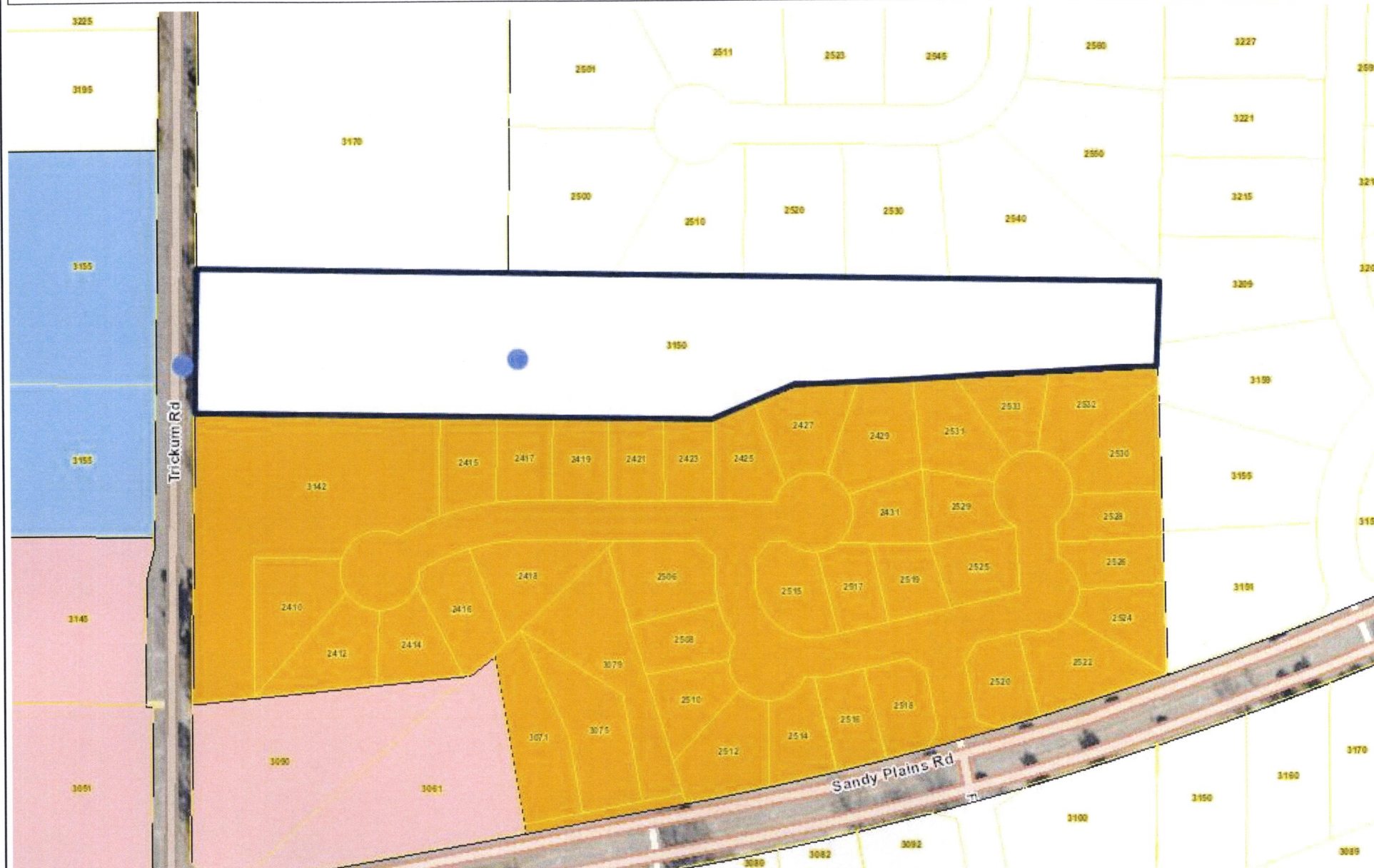
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3150 Trickum - FLUM

Petition No. Z-85
Meeting Date 12-21-21
Continued



400.0 0 200.00 400.0 Feet

WGS_1984_Web_Mercator_Auxiliary_Sphere
© Cobb County Georgia

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THIS MAP IS NOT TO BE USED FOR NAVIGATION

1:2,400



Map Notes:

Petition No. Z-85
Meeting Date 12-21-21
Continued



Petition No. 2-85
Meeting Date 12-21-21
Continued



Petition No. Z-85
Meeting Date 12-21-21
Continued



Petition No. Z-85
Meeting Date 12-21-21
Continued

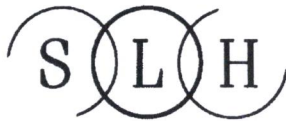


Petition No. Z-85
Meeting Date 12-21-21
Continued



Petition No. Z-85
Meeting Date 12-21-21
Continued





COPY

GARVIS L. SAMS, JR.
JOEL L. LARKIN
PARKS F. HUFF

SAMS, LARKIN & HUFF

A LIMITED LIABILITY PARTNERSHIP
SUITE 100

376 POWDER SPRINGS STREET
MARIETTA, GEORGIA 30064-3448

770-422-7016

TELEPHONE

770-426-6583

FACSIMILE

Min. Bk. 94 Petition No. Z-85
Doc. Type letter of 12-14-2021

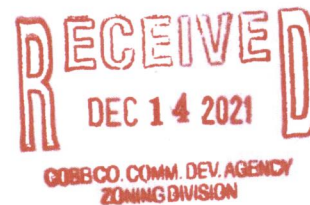
December 14, 2021

Meeting Date 12-21-21

**(SITE PLAN REVISION TO REVISED LETTER OF AGREEABLE
STIPULATIONS/CONDITIONS, ARCHITECTURAL IMAGERY
& REVISED SITE PLAN DATED DECEMBER 13, 2021)**

VIA EMAIL & HAND DELIVERY

Mr. John P. Pederson, AICP, Manager
Cobb County Zoning Division
Community Development Agency
1150 Powder Springs Road, Suite 400
Marietta, GA 30064



Re: Application of Lot One Homes, Inc. to Rezone a 4.406 Acre Tract from R-20 to RA-4 (No. Z-85 [2021])

Dear John:

This firm represents the Applicant, Lot One Homes, Inc. ("Lot One") concerning the above-captioned and revised Application for Rezoning. The Application was heard in its original form by the Planning Commission ("PC") on December 7, 2021 wherein it received unanimous recommendation for Approval and is presently scheduled to be considered for final action by the Cobb County Board of Commissioners ("BOC") on December 21, 2021.

As you will recall, the property at issue ("Subject Property") is located on the east side of Trickum Road, north of Sandy Plains Road; is contiguous to Hillcrest Oaks Subdivision which is zoned in the RA-4 district; bounded on the north by R-20 tracts; and, is across Trickum Road from commercial tracts which are located southwest of the Subject Property.

In that regard, yesterday a Revised Stipulation Letter was emailed to you, County officials and staff. The site plan that was attached to that letter has been revised this morning in order to reflect RA-4 setbacks, impervious calculations and landscape buffers. The new site plan is attached to this letter and the large copies will be hand delivered to your office today. The remainder of the Revised Stipulation Letter dated December 13, 2021 remains the same.

SAMS, LARKIN & HUFF

A LIMITED LIABILITY PARTNERSHIP

Petition No. Z-85
Meeting Date 12-21-21
Continued

VIA EMAIL & HAND DELIVERY

Mr. John P. Pederson, AICP, Manager
Cobb County Zoning Division
Community Development Agency
December 14, 2021
Page 2

Please do not hesitate to contact me should you or your Staff require any further information or documentation prior to this Application being heard and considered by the BOC next week. With kind regards and best wishes for the Holiday Season, I am

Very truly yours,

SAMS, LARKIN & HUFF, LLP



Garvis L. Sams, Jr.
gsams@samslarkinhuff.com

GLS, Jr./jac
Enclosure/Attachment

cc: Members, Cobb County Board of Commissioners (via email w/attachments)
Members, Cobb County Planning Commission (via email w/attachments)
Dr. Jackie McMorris, County Manager (via email w/attachments)
Board of Commissioners Assistants (via email w/attachments)
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(via email w/attachments)
Ms. Jeannie Peyton, Senior Planner (via email w/attachments)
Mr. Terry Martin, Planner III (via email w/attachments)
Mr. Donald Wells, Planner II (via email w/attachments)
Ms. Margie Vazquez, Planner II (via email w/attachments)
Mr. LeDarius Scott, Planner I (via email w/attachments)
Ms. Pamela Mabry, County Clerk (via email w/attachments)
Ms. Robin Stone, Deputy County Clerk (via email w/attachments)
Ms. Leila Washington, Deputy County Clerk (via email w/attachments)
Capt. Josh Davis, Cobb County Fire Marshal's Office (via email w/attachments)
Ms. Amy Diaz, P.E., Cobb DOT (via email w/attachments)
Ms. Abby Rettig, Cobb DOT (via email w/attachments)
Mr. Carl Carver, P.E., Stormwater Management Division (via email w/attachment)
Mr. Tim Davidson, Cobb Water System (via email w/attachments)
Ms. Chris Lindstrom, ECCA Vice President (via email w/attachments)
Mr. Brian Dennis (via email w/attachments)
Mr. David G. Meyer, LA, DGM Land Planning Consultants, (via email w/attachments)

East Cobb Civic Association, Inc.
Commission District 3

Petition Z-85 (December)

Applicant, Lot One Homes, Inc., 404-250-6502, represented by Garvis L. Sams, Jr., 770-422-7016, requests the rezoning of property from R-20 to RA-5.

Additional Information:

Property is located at 3150 Trickum Road. This is located on the east side of Trickum Road, north of Sandy Plains Road. Current title holder is The Edna E. Miller Revocable Trust. Contiguous Zonings: R-20 (North/South/West); RA-4 (South); R-15 (South); Future Land Use: LDR

ECCA Case Manager: Chris Lindstrom

Reason: Applicant would like to build 10 single-family homes with an entrance from Trickum Road.

Discussion:

ECCA has communicated with the applicant's representative, Stormwater Management, and Sewer Departments. ECCA has also met with Hillcrest Oaks subdivision representatives.

The Planning Commission recommended rezoning from R-20 to RA-4 on December 2, 2021. The applicant's representative provided a new stipulation letter dated December 13, 2021 and new site plan dated December 14, 2021. While most ECCA recommendations have been included in the latest stipulations, we recommend two be clarified.

1. While the current site plan reflects 5 ft side setbacks, ECCA requests acknowledgement that the applicant will adhere to the 15 ft between dwellings as stated in code 134-201.
2. Landscaping at the entrance and along landscaped buffers to be irrigated.

Recommendation:

ECCA recommends approval of this rezoning subject to the stipulation letter dated December 13, 2021, the complete site plan dated December 14, 2021, and recommended additions to the stipulations listed above, and all staff comments.

**MINUTES OF ZONING HEARING
COBB COUNTY PLANNING COMMISSION
DECEMBER 7, 2021
9:00 A.M.**

The Planning Commission Zoning Hearing was held on Tuesday, December 7, 2021, in the second-floor public meeting room of Cobb County Building A, 100 Cherokee Street, Marietta, Georgia. Present and comprising a quorum of the Commission were:

Fred Beloin – Chairman
David Anderson
Deborah Dance
Michael Hughes
Stephen Vault

CALL TO ORDER – CHAIRMAN BELOIN

Chairman Beloin called the hearing to order at 9:02 a.m.

REGULAR AGENDA (CONT.)

Z-85 **LOT ONE HOMES** (The Edna E. Miller Revocable Trust, owner) requesting rezoning from **R-20** to **RA-5** for a single-family subdivision in land lots 455 and 482 of the 16th district. Property is located on the east side of Trickum Road, north of Sandy Plains Road (3150 Trickum Road).

The public hearing was opened; Parks Huff, Brian Dennis, Lisa Gray, and Chris Lindstrom addressed the Planning Commission. Following the presentation and discussion, the following motion was made:

MOTION: Motion by Dance, second by Vault, to recommend **deletion** of Z-85 to the **RA-4** zoning district, subject to:

1. All Staff comments and recommendations
2. 15-foot distance between homes
3. The developer is to maintain an open space in perpetuity and clear any existing maintenance issues consistent with development of the property
4. Comments from East Cobb Civic Association (ECCA) dated December 2, 2021, relative to Site Plan, proposed homes, lot sites, HOA (Homeowners' Association), and construction (on file in the Zoning Division)

VOTE: ADOPTED 5-0

EXISTING ZONING:	CC
------------------	----

20,000 SF
80 FEET ON FRONT SETBACK
80 PERCENT
50 FEET AND 4 STORIES

COUNTY REQUIREMENT:	REQUIRED	REQUIRED	TOTAL PARKING
---------------------	----------	----------	------------------

	MAXIMUM	MINIMUM	PROVIDED
C-STRIP @ 3.000 S.F.			
1 SPACE PER PARTIAL (3 MAXIMUM)		5	3.2
TOTAL		5	3.2

INCLUDES 2 ADD. SPACES (2 REQUIRED)

• INCLUDES 2 ADA SPACES (2 REQUIRED)

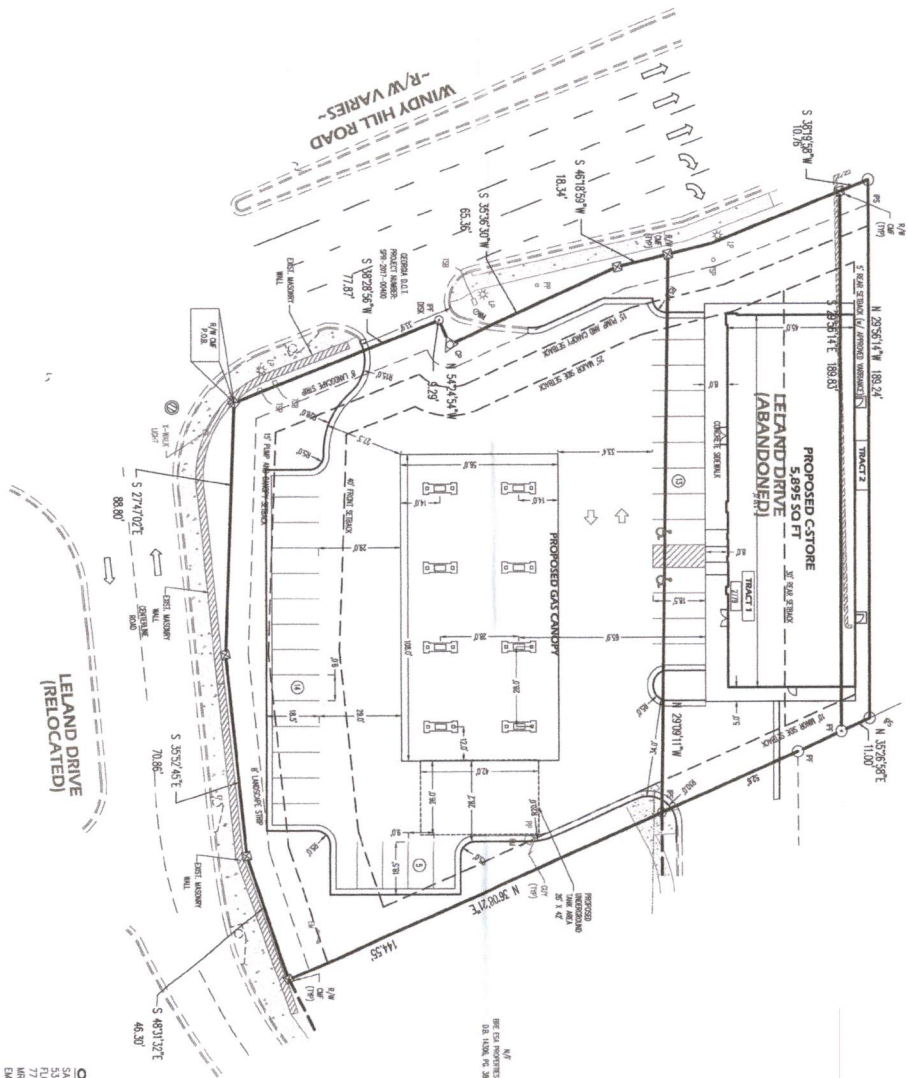
2 BRACS
FRONT: 40 FEET
SET (LAND): 25 FEET
SET (WATER): 10 FEET
REAR: 30 FEET
LANDSCAPE STRIP: 8 FEET

NO PROPERTY DOES NOT LIE IN A 100-YR FLOOD ZONE AS SHOWN ON FINAL COMMUNITY PANEL. NO. LANDSCAPE STRIP, DATED DECEMBER 16, 2005.

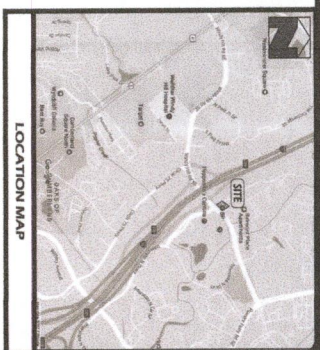
Min. Bk. 94 Petition No. 2-86
Doc. Type Site Plan
Meeting Date 12-21-21

GEORGIA 811
Utilities Protection Center, Inc.
Know what's below.
Call before you dig.
UTILITY DISCLAIMER:

the information that the contractors will be able to collect under the contract, the contractor will be able to determine the extent of the contractor's liability for the project. Both of these factors are important in the contractor's decision to bid for the project. The contractor will be able to determine the extent of the contractor's liability for the project. The contractor will be able to determine the extent of the contractor's liability for the project.



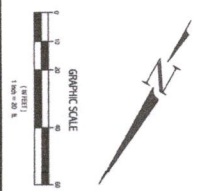
SITE AREA:
TRACT 1 = 0.701 ACRES (30,541 S.F.)
TRACT 2 = 0.044 ACRES (1,895 S.F.)



OWNER/DEVELOPER:
SANT PARDON, LLC
5017 T. L. BOYD RD., WY
FLOWERY BRANCH, GA 30542
770.665.7240 (PH)
MR. STEVE HALL
EMAIL: shalloe@ppenpetroleum.com

24-HR CONTACT:
STEVE HALL
770.364.9804 (PH)

ENGINEER:
EVANS DESIGN GROUP, INC
4755 SUMNER SQ. COURT
BUFFORD, GA 30519
678.207.6830 (PH)
CONTACT: JON M. EVANS, P.E.



	E&S Design Group, Inc. Civil Engineering Land Development Services 10000 E. Highway 190, Suite 100 Fort Worth, TX 76126 (817) 292-3070 • 4400		PROJECT NAME: WINDY HILL ROAD C-STORE
2775 WINDY HILL RD. LAND LOT 873, T19N 05E, 24N SEC. 4, COMB COUNTY, GEORGIA	DATE: 10-06-2021		
No Release For Construction of Release For Construction			
OWNER/DEVELOPER			
REVISIONS			
C&A NUMBER: 17-019			
SHEET SITE PLAN C-4			

A LIMITED LIABILITY PARTNERSHIP
WWW.MIJS.COM

The undersigned and this firm represent Tyler Chandler Homes, LLC, the Applicant (hereinafter “Applicant”), and the Property Owner, the Estate of Ronald Goldin Jones (hereinafter “Owner” or “Property Owner”), in the Application for Rezoning with regard to property located on the westerly side of Austell Powder Springs Road, southerly of Old Austell Road, being more particularly known as 4210 Austell Powder Springs Road, Land Lot 979, 19th District, 2nd Section, Cobb County, Georgia (hereinafter the “Property” or “Subject Property”). After meetings and discussions with Planning and Zoning Staff and various Cobb County Departmental Representatives, reviewing the Departmental Comments and Staff Recommendations, reviewing the uses of surrounding properties, and following the presentation to and hearing before the Cobb County Planning Commission, we have been authorized by the Applicant to submit this revised letter of agreeable stipulations and conditions which, if the Application for Rezoning is approved, as submitted, shall become a part of the grant of the

MOORE INGRAM JOHNSON & STEELE

Mr. John P. Pederson, AICP
Zoning Division Manager
Zoning Division
Cobb County Community Development Agency
Page 2 of 6
December 15, 2021

Petition No. 2-89
Meeting Date 12-21-21
Continued

requested zoning and shall be binding upon the Subject Property. This letter shall supersede and replace in full the previous letter of agreeable stipulations and conditions dated and submitted on December 1, 2021. The proposed, revised stipulations are as follows:

- (1) The stipulations and conditions set forth herein shall replace and supersede in full any and all prior stipulations and conditions, in whatsoever form, which are currently in place on the Subject Property; together with any and all prior Departmental Comments and Staff Recommendations submitted by Planning, Fire, Water, Sewer, and Drainage, relating to the Subject Property from any previous zoning actions.
- (2) Applicant seeks rezoning of the Subject Property from the existing zoning category of R-20 to the proposed zoning category of Residential Senior Living ("RSL") (non-supportive), site plan specific to the revised Site Plan prepared for Applicant by Betterton Surveying & Design, Inc., dated and last revised December 13, 2021, and submitted contemporaneously with this revised letter of agreeable stipulations and conditions. A reduced copy of the revised Site Plan is attached as Exhibit "A" and incorporated by reference.
- (3) The Subject Property is a total of approximately 8.413 acres and is proposed for development of a maximum of twenty-seven (27) non-supportive, detached, age-restricted residential homes.
- (4) Residents within the proposed community shall be restricted to those persons age fifty-five (55) and older, pursuant to and in accordance with the RSL Zoning Ordinance and the Fair Housing Act.
- (5) The residences shall have a minimum of 1,800 square feet of heated and cooled living space, ranging upwards to 2,400 square feet, and greater.
- (6) The proposed residences shall be Traditional and Craftsman/Cottage in style and architecture, with exterior facades consisting of brick, stone, stacked stone, cedar shake, board and batten, hardi-plank, cementitious siding, and combinations thereof, with complementary accents, and shall be substantially similar to the homes depicted in the elevations attached collectively as Exhibit "B" and incorporated herein by reference.
- (7) Applicant agrees to the creation of a mandatory homeowners association consistent with upscale, RSL communities. The mandatory homeowners association shall be responsible for architectural controls of the residences within

Mr. John P. Pederson, AICP
Zoning Division Manager
Zoning Division
Cobb County Community Development Agency
Page 3 of 6
December 15, 2021

Petition No. Z-89
Meeting Date 12-21-21
Continued

the proposed community; as well as, the upkeep and maintenance of landscaping of the entrance area and common areas, buffer areas, open space areas, stormwater management area, and exterior front yard areas around the residences; as well as entrance area, mail kiosk, private street, and the like contained within the proposed residential community.

- (8) Additionally, and in conjunction with the creation of the mandatory homeowners association, there shall be a Declaration of Covenants, Easements, and Restrictions ("Covenants") for the proposed community. The Covenants shall be recorded in the Deed Records of Cobb County, Georgia, and shall contain covenants, rules, and regulations applicable to the proposed residential community and consistent with the age restrictions of the RSL Ordinance. The mandatory association shall be responsible for the enforcement of the Covenants.
- (9) Entrance signage for the proposed community shall be ground based, monument-style signage, and shall consist of brick, stone, stacked stone, stucco, or combinations thereof, with accents, complementary to materials used in the construction of the homes within the community. The entrance landscaping shall be professionally designed and implemented, with final approval being made by the Cobb County Arborist. Maintenance of the entrance area shall be through the mandatory homeowners association as set forth in the Covenants.
- (10) The setbacks for the proposed residential community shall be as shown on the revised Site Plan.
- (11) The amenity area for the proposed community shall consist of, at a minimum, a community gathering area and structure (i.e., gazebo, pavilion, fire pit) for the residents and their guests; as well as, passive open areas.
- (12) All utilities for the proposed community shall be located underground.
- (13) There shall be a twenty (20) foot landscape buffer adjacent to existing residentially zoned property, as shown and reflected on the revised Site Plan.
- (14) All landscaping referenced herein shall be approved by the Cobb County Arborist as part of the Plan Review and Permitting Process and incorporated into the overall landscape plan for the proposed community.
- (15) The proposed community shall have private streets which shall be constructed to Cobb County Standards as to composition.

Mr. John P. Pederson, AICP
Zoning Division Manager
Zoning Division
Cobb County Community Development Agency
Page 4 of 6
December 15, 2021

Petition No. Z-89
Meeting Date 12-21-21
Continued

- (16) Applicant agrees to construct internal sidewalks along one side of the streets within the proposed community which shall connect to exterior street sidewalks.
- (17) The detention area shall be as shown and reflected on the revised Site Plan. The detention area shall be fenced with black, vinyl-clad chain link fencing, a minimum of six (6) feet in height. Landscaping for this area shall be to the exterior of the fencing for purposes of visual screening. The landscaping shall be approved by the Cobb County Arborist during the Plan Review Process.
- (18) All setbacks, landscape, and buffer areas may be penetrated for purposes of fencing, access, utilities, and stormwater management; including, but not limited to, drainage and detention facilities, utilities, and any and all slopes or other required engineering features of the foregoing.
- (19) Minor modifications to the within stipulations, the referenced, revised Site Plan, lighting, signage, landscaping, architecture, site features, and the like, may be approved by the District Commissioner, as needed or necessary, except for those that:
 - (a) Increase the density of a residential project or the overall square footage of a non-residential project;
 - (b) Reduce the size of an approved buffer adjacent to a property that is zoned the same or in a more restrictive zoning district;
 - (c) Relocate a structure closer to the property line of an adjacent property that is zoned the same or in a more restrictive zoning district;
 - (d) Increase the height of a building that is adjacent to a property that is zoned the same or in a more restrictive zoning district;
 - (e) Change an access location to a different roadway;
 - (f) Would be in direct contradiction or conflict with any of the stipulations of this rezoning;
 - (g) Would be in direct contradiction or conflict with Cobb County Code and Ordinances; or

MOORE INGRAM JOHNSON & STEELE

Mr. John P. Pederson, AICP
Zoning Division Manager
Zoning Division
Cobb County Community Development Agency
Page 5 of 6
December 15, 2021

Petition No. Z-89
Meeting Date 12-21-21
Continued

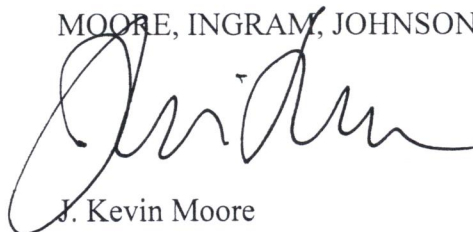
- (h) Would be in direct contradiction or conflict with any Staff Recommendations that were adopted into the final zoning decision.
- (20) Applicant agrees to comply with all Cobb County Stormwater Management requirements applicable to the Subject Property.
- (21) Applicant agrees to comply with the Comments and Recommendations from Cobb County Water and Sewer regarding the availability and accessibility of water and sewer for the Subject Property.
- (22) Applicant agrees to the following system improvements to mitigate traffic concerns:
 - (a) Installation of sidewalk, curb, and gutter along the frontage of the Subject Property along Austell Powder Springs Road; and
 - (b) Installation of a deceleration lane, or taper, for ingress into the proposed development.

We believe the requested zoning, pursuant to the revised Site Plan and the stipulations set forth herein, is an appropriate use of the Subject Property while taking into consideration the existing conditions of the Property and the area surrounding the proposed development. The proposed community shall be a quality development and shall provide a much-needed and highly sought-after type of community within the Cobb County area. Thank you for your consideration in this request.

With kindest regards, I remain

Very truly yours,

MOORE, INGRAM, JOHNSON & STEELE, LLP



J. Kevin Moore

JKM:cc
Attachments

MOORE INGRAM JOHNSON & STEELE

Mr. John P. Pederson, AICP
Zoning Division Manager
Zoning Division
Cobb County Community Development Agency
Page 6 of 6
December 15, 2021

Petition No. Z-89
Meeting Date 12-21-21
Continued

c: Cobb County Board of Commissioners:

Lisa N. Cupid, Chairwoman
JoAnn Birrell
Keli A. Gambrill
Jerica Richardson
Monique Sheffield
(With Copies of Attachments)

Jeannie Peyton
Senior Planner
Zoning Division
Cobb County Community Development Agency
(With Copies of Attachments)

Tyler Chandler Homes, LLC
(With Copies of Attachments)





TYLER
CHANDLER
HOMES

Petition No. Z-89
Meeting Date 12-21-21
Continued



ASLAN A

SQUARE FOOTAGE PER UNIT

FIRST FLOOR	1853 SF
SECOND FLOOR (FINISHED B)	381 SF
SECOND FLOOR (UNFINISHED LOT IN SF)	298 SF
TOTAL HEATED	2240 SF
OVERALL WIDTH	39' - 00"
OVERALL DEPTH	10 - 00"

PLANS AND SPECIFICATIONS ARE SUBJECT
TO CHANGE WITHOUT NOTICE.



TYLER
CHANDLER
HOMES

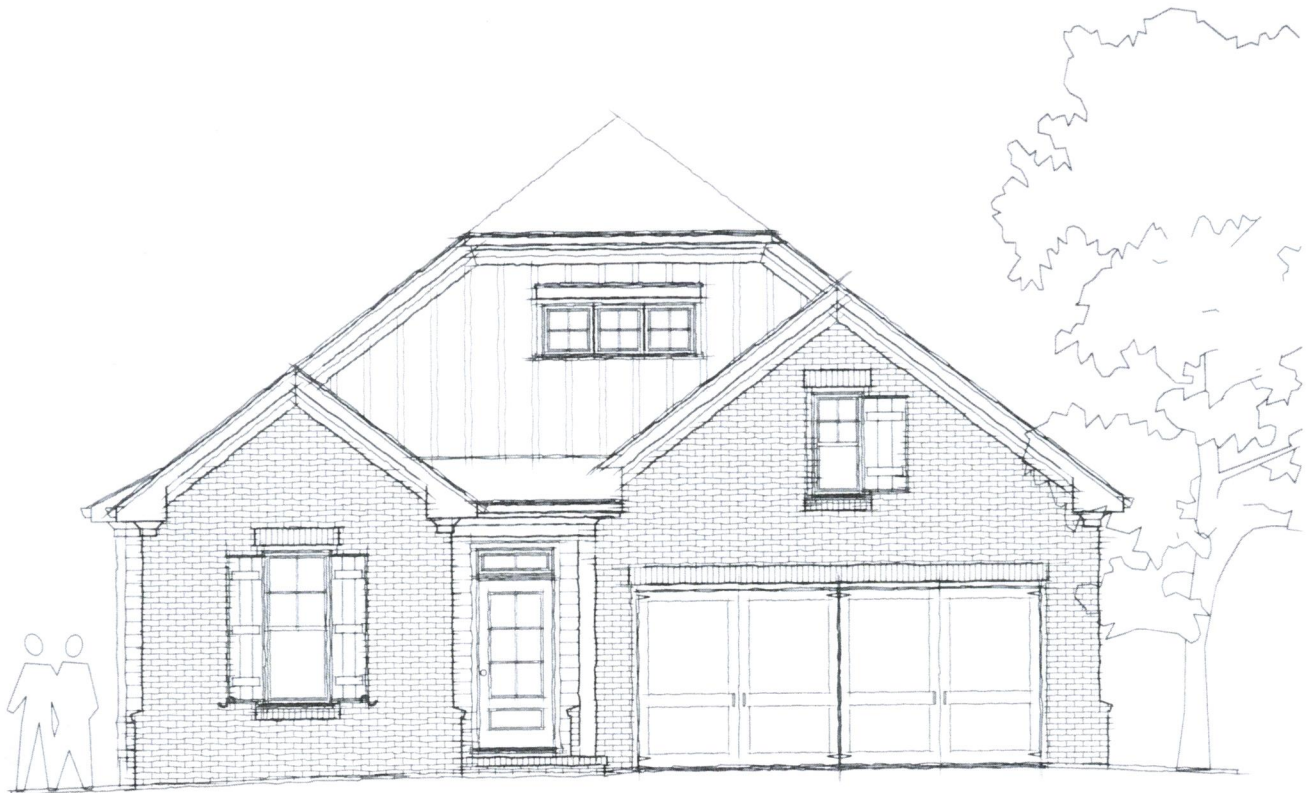
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EXHIBIT "B"



TYLER
CHANDLER
HOMES

Petition No. Z-89
Meeting Date 12-21-21
Continued



EDMUND A

SQUARE FOOTAGE PER UNIT	
MAIN FLOOR	1922 SF
TOTAL HEATED	1922 SF
OVERALL WIDTH	39' - 00"
OVERALL DEPTH	70' - 00"

PLANS AND SPECIFICATIONS ARE SUBJECT
TO CHANGE WITHOUT NOTICE.



TYLER
CHANDLER
HOMES

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DECEMBER 21, 2021 ZONING HEARING
"OTHER BUSINESS"
COMMISSION DISTRICT 4

Min. Bk. 94 Petition No. O.B.50
Doc. Type Cobb DOT, Water & Sewer and Fire Dept.
Comments and recommendations
Meeting Date 12-21-21

ITEM OB-50-2021

PURPOSE

To consider a site plan and stipulation amendment for Brannen Cove, LLC regarding rezoning application Z-41 of 2020 in Land Lot 683 of the 18th District. Located on the northerly side of White Road (A/K/A Bob White Road), southeasterly of Factory Shoals Road (White Road). *(Previously continued by Staff from the September 21, 2021 Board of Commissioners hearing until the October 19, 2021 Board of Commissioners hearing; Continued by the Board of Commissioners until the November 16, 2021 hearing; Continued by Staff until the December 21, 2021 hearing).*

BACKGROUND

The subject property was zoned to Light Industrial (LI) in 2020 to build one 140,000 square foot distribution center. The applicant would like to revise the concept to remove the building and develop the entire parcel as a parking lot for vans and tractor-trailers. There would be 104 automobile parking spaces, 58 tractor-trailer parking spaces, and 294 van parking spaces. The van and trailer lot would be fenced with secure access. If approved, all previous stipulations not in conflict with this revision should remain in effect.

STAFF COMMENTS

Cobb DOT: Recommend retaining all DOT recommendations from Z-41-2020, which include the following: a) Recommend applicant consider entering into a development agreement pursuant of O.C.G.A. 36-71-13 for dedication of the following system improvements to mitigate traffic concerns: a) donation of right-of-way on the north side of White Road, a minimum of 30' from the roadway centerline; b) As necessitated by this development, recommend access on White Road include a deceleration lane. Recommend location and design be determined during plan review, subject to Cobb County DOT approval; c) Recommend curb, gutter, and sidewalk along the property frontage on White Road; d) Recommend development access either line up or have a minimum offset tangent distance of 150' with the recently constructed full-movement Cobb West driveway on the south side of White Road; e) Recommend applicant verify that minimum intersection sight distance is available for the access on Bob White Road, and if it is not, implement remedial measures, subject to Cobb County DOT approval, to achieve the minimum requirement for a 35-mph roadway; and f) Recommend applicant be required to meet all Cobb County Development Standards and Ordinances related to project improvements.

DECEMBER 21, 2021 ZONING HEARING
"OTHER BUSINESS"
COMMISSION DISTRICT 4
PAGE 2

Petition No. 08.50
Meeting Date 12-21-21
Continued

Water & Sewer Comments: If there will be no structures requiring water and sewer service, original comments regarding water and sewer service no longer apply.

Fire Department: See attached.

RECOMMENDATION

The Board of Commissioners conduct a Public Hearing and consider the site plan and stipulation amendment.

ATTACHMENTS

Site plan and letter of agreeable stipulations.

APPLICANT: Brannen Cove

PETITION NO.: OB-50

PRESENT ZONING:

PETITION FOR:

Fire Department

Petition No. OB-50

Meeting Date 12-21-21

Continued

The owner/tenant maintain the sole responsibility for the design and correcting all errors, omissions, problems, and code (if any) exposed during construction AFTER authorization by Cobb County

IFC 510- EMERGENCY RESPONDER RADIO COVERAGE. New buildings are required to provide radio coverage for emergency responders per the International Fire Code. Testing is required by a third party and when deemed necessary amplification systems are required before the building will be issued a certificate of occupancy. This message is to serve as an early notification to owners and developers for budgeting purposes.

Fire Department Access

The fire department must be able to access the long side of the building.

ACCESS: Fire apparatus access roads shall extend to within 150 feet of all portions of the facility or any portion of the exterior wall of the first floor (State Modifications IFC 503.1 2012 Edition).

All access roads shall meet the American Association of State and Highway Transportation Officials (AASHTO) design manual live load standard HS20 (75,000 lbs.) with an unobstructed width of not less than 20 feet, 25 foot inside radius, 50 foot outside turning radius and unobstructed vertical clearance of not less than 13 feet 6 inches.

Maximum slope of the access road in reference to the apparatus is 10% Front to Back and 5% Side to Side. Maximum grade of roadways leading to Fire Access roads refer to the Cobb County Development Standard Section 400: 14% for Non-Residential. Maximum angle of departure is 8.5%.

Dead-end access roads more than 150 feet shall be provided with a turn-around (IFC Chapter-5, 120-3-3 Rules and Regulations, CCDS Section-401 & 402). Refer to APPENDIX-D for dimensional criteria for turn-arounds in commercial developments.

Aerial apparatus access shall be required for all structures over 30 feet in height measured from the lowest level of fire department access to the ceiling height of the highest occupied floor level. Aerial fire apparatus access roads shall be a minimum width of 24 feet maximum of 40 feet from the structure and be positioned parallel to one entire side of the building. No overhead utility and power lines shall be located within the aerial fire apparatus access. (Cobb County Development Standards 401.08.02.1)

C/O: Plans must be submitted to the Cobb County Fire Marshal's Office to initiate the Certificate of Occupancy process.

Gates

Gates securing fire apparatus access shall be a minimum 14 feet in clear width for a single lane and 20 feet for a double lane. The gates shall not reduce the operating width of the roadway. Double lane gates shall be a minimum of 20 feet in clear width. Gates shall be of the swinging or sliding type. Electric gates shall be equipped with a means of opening the gate by fire department personnel for emergency access. Emergency opening devices shall be approved by the Cobb County Fire Marshal's Office.

Modifications may be required to incorporate the Cobb County Fire Marshal's Office comments.

Petition No. OB-56
Meeting Date 12-21-21
Continued

International Fire Code (IFC) Appendix D

(Adopted by the State of Georgia at the beginning of 2020. Partially noted below.)

SECTION D103

MINIMUM SPECIFICATIONS

D103.1 Access road width with a hydrant.

Where a fire hydrant is located on a fire apparatus access road, the minimum road width shall be 26 feet, exclusive of shoulders (see Figure D103.1 in Appendix D).

Josh Davis

(770) 528-8161

josh.davis@cobbcounty.org

1105 W. Peachtree St. NE, Suite 1000
Atlanta, Georgia 30309-3608
Tel: 404 815-3500
www.sgrlaw.com



Dennis (Den) J. Webb, Jr.
Direct Tel: 404-815-3620
Direct Fax: 404-685-6920
dwebb@sgrlaw.com

Min. Bk. 94 Petition No. OB-66
Doc. Type Letter from Dennis Webb
Meeting Date 12-21-21

December 7, 2021

Via E-mail Only

Mr. John P. Pederson, AICP
Zoning Division Manager
Zoning Division
Cobb County Community Development Agency
Suite 400
1150 Powder Springs Road
Marietta, Georgia 30064

Re: Application for Other - Application No.: OB-66 (2021)
Business
Applicant: DGH 1125, LLC
Property Owners: DGH 1125, LLC
Property: 1.717 acres, more or less, located on the south
side of Ernst Barrett Parkway and on the west
side of Greers Chapel Road, Land Lots 208 and
209, 20th District, Cobb County, Georgia

Dear John:

The undersigned and this firm represent DGH 1125, LLC, the Applicant and Property Owner (hereinafter referred to as "Applicant" and/or "Owner"), in its Application for Other Business to reduce setbacks and frontage requirements with regard to 1.717 acres, more or less, located on the south side of Ernst Barrett Parkway and on the west side of Greers Chapel Road, Land Lots 208 and 209, 20th District, Cobb County, Georgia (hereinafter the "Property" or "Subject Property"). After meeting with Planning and Zoning Staff and elected officials, we have been authorized by the Applicant to submit this letter of agreeable stipulations and conditions which, if the Application for Other Business is approved, as submitted, shall become part of the grant of the requested Application and shall be binding upon the Subject Property. The proposed stipulations are as follows:

SGR/26325421.1

Mr. John P. Pederson, AICP
Zoning Division Manager
Zoning Division
Cobb County Community Development Agency
December 7, 2021
Page 2

Petition No. 08-66
Meeting Date 12-21-21
Continued

- (1) The stipulations and conditions set forth herein shall replace and supersede in full any and all prior stipulations and conditions, in whatsoever form, which are currently in place on the Subject Property, together with any and all prior Departmental Comments and Staff Recommendations relating to the Subject Property from any previous zoning actions.
- (2) The Owner agrees to prohibit the following uses of the Subject Property:
 - a. Automotive storage yards and wrecker services;
 - b. Automotive paint and body shop;
 - c. Billiards and pool halls;
 - d. Cemeteries;
 - e. Circuses and carnivals;
 - f. Crematories, human or animal;
 - g. Dry cleaning plants;
 - h. Farm equipment repair establishments;
 - i. Flea markets;
 - j. Funeral homes;
 - k. Heavy manufacturing establishments;
 - l. Light manufacturing establishments;
 - m. Massage parlor;
 - n. Mining;
 - o. Nightclubs;
 - p. Pawn shops;
 - q. Sexually oriented businesses;
 - r. Tattoo parlor; and

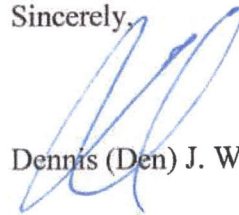
Mr. John P. Pederson, AICP
Zoning Division Manager
Zoning Division
Cobb County Community Development Agency
December 7, 2021
Page 3

Petition No. OB-66
Meeting Date 12-21-21
Continued

- s. Any store selling drug paraphernalia.
- (3) The Subject Property shall be developed and subdivided in substantial conformity with that certain subdivision site plan prepared by AEC, Inc., dated 7/7/2020 and sealed 10/05/2021, which was submitted with the Application for Other Business (the "Site Plan").
- (4) The District Commissioner shall have the authority to make modifications to the Site Plan and the stipulations/conditions during the plan and/or subdivision plat review process

We believe the requested Other Business approval, pursuant to the revised Site Plan and the stipulations set forth herein, is appropriate for the Subject Property. We appreciate very much your assistance and consideration as well as that of the Cobb County Board of Commissioners in this request.

Sincerely,



Dennis (Den) J. Webb, Jr.

DJW/rjc

Cc: Cobb County Board of Commissioners:
Lisa N. Cupid, Chairwoman
JoAnn Birrell
Keli A. Gambrill
Jerica Richardson
Monique Sheffield

**DECEMBER 21, 2021 ZONING HEARING
"OTHER BUSINESS"
COMMISSION DISTRICT 3**

Min. Bk. 94 Petition No. OB-66
Doc. Type Water & Sewer and Cobb DOT
Comments and recommendations
Meeting Date 12-21-21

ITEM OB-66-2021

PURPOSE

To consider a reduction of minimum public road frontage from required 50-feet to 7-feet for building 100 (western building), and setback variances as shown on the site plan for DGH 1125, LLC for property located on the south side of Ernest Barrett Parkway, and on the east side of Greers Chapel Road, in Land Lots 208 and 209 of the 20th District (1125 Ernest Barrett Parkway). *(Continued by Staff from the November 16, 2021 Board of Commissioners hearing until the December 21, 2021 Board of Commissioners hearing).*

BACKGROUND

The Board of Commissioners considers all reductions to minimum public road frontage pursuant to a code amendment to Sec. 134-271(7)(a) adopted on February 27, 2018. This is the old Sweet Tomato site on Barrett Parkway. The subject property is required to have 50-feet of public road frontage per lot. The applicant would like to reduce the required 50-feet of public road frontage to 7-feet for building 100 (western building). This is due to a large landscape area along Barrett Parkway that is owned by the Barrett Master Association. The applicant would also need setback variances as shown on the site plan due to the lot split configuration.

STAFF COMMENTS

Water and Sewer: CCWS procedure requires each resulting parcel of a lot split to have separate CCWS water meters and independent connections to CCWS public sewer.

Fire Department: The owner/tenant maintain the sole responsibility for the design and correcting all errors, omissions, problems, and code (if any) exposed during construction AFTER authorization by Cobb County.

Cobb DOT: No comments.

RECOMMENDATION

The Board of Commissioners conduct a Public Hearing and consider the proposed reduction of minimum lot size.

ATTACHMENT

Other Business application.

Min. Bk. 94 Petition No. OB-70
Doc. Type Letter from Lee B.
Beitchman
Meeting Date 12-21-21

BEITCHMAN LAW FIRM

3455 Oakshire Dr. NE
Marietta, Georgia 30062
TELEPHONE (678) 358-7279
BEITCHMANLAW@AOL.CO

Mr. David A. Griffin, RLA
Site Plan Review Section Mgr
Development & Inspections Division

By email: David.Griffin@cobbcounty.com

Dear David: We request that the Edenton oak trees and the maple trees be removed, that the Arborvitae evergreen buffer remains, and that there is no time requirement for the removal of oaks and maples.

Sincerely,

Lee B. Beitchman
President Edenton HOA

**DECEMBER 21, 2021 ZONING HEARING
"OTHER BUSINESS"
COMMISSION DISTRICT 3**

Min. Bk. 94 Petition No. OB-71
Doc. Type Stormwater Management
Comments and recommendations
Meeting Date 12-21-21

ITEM OB-71

PURPOSE

To consider amending the zoning stipulations for Z-43 of 2011 regarding impervious surface for lot 51 (from 35% to 39.46% maximum impervious surface) for Paige Shuckman for property located on the south side of Lulworth Lane, south of Barnhill Drive, in Land Lot 601 of the 16th District (2559 Lulworth Lane).

BACKGROUND

The property was rezoned in 2011 for a residential subdivision subject to many stipulations. One of the zoning stipulations called for the impervious surface limitation of 35% not to be exceeded. The applicant owns a lot and would like to increase the impervious surface limits to 39.46% so they can install a swimming pool and related decking on the property. A site plan of the pool is attached for review. If approved, all previous stipulations would remain in effect.

STAFF COMMENTS

Stormwater Management: If approved; provide stormwater mitigation for the impervious coverage over 35%. A site plan with the stormwater mitigation design and details shall be include with the pool permit plans.

RECOMMENDATION

The Board of Commissioners conduct a Public Hearing and consider the proposed stipulation amendment.

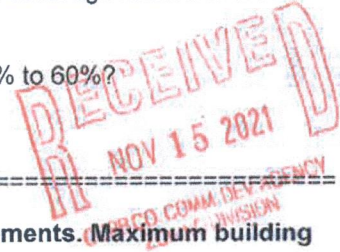
ATTACHMENT

Other Business application.

Request for variance to Sec. 134-206 (12) K. Maximum impervious surface shall not exceed 45 percent.

When the site was rezoned, the density permitted in RM-12 doubled. The code states that a maximum of 45% of an RM-12 site can be impervious. With more density comes larger building footprints and more parking for the approved additional units. During rezoning, applicant requested a reduction in parking ratios but were denied that request. Once the site plan was amended to account for the new density and parking requirements, the impervious surface calculation became 60%, which exceeds the 45% requirement. Typically, multifamily zoning would allow 60% or more since parking cannot be provided while allowing only 45%. Achieving 45% is virtually impossible given the site coverage related to the approved density.

Request: Can the maximum impervious cover percentage increase from 45% to 60%?



=====

Request for variance to Sec. 134-206 (7) Building and structure requirements. Maximum building height is 40 feet.

According to the code, the front elevation of buildings within the RM-12 district may only be 40 feet tall, with the assumed intention being that buildings can be four stories tall on the front elevation. We assumed a four story front elevation building, which is shown in the zoned rendering. Once our architect began full building design to match the rendering, including decorative parapet walls and extra ceiling heights for the zoned corner retail space, the actual building height will be 46 feet. See attached diagram.

Request: In order to comply with the rendering from the original zoning case, can maximum building height be increased from 40 foot maximum to 46 foot maximum?

=====

Request to eliminate the requirement of procuring the parking easement from adjacent owners.

The applicant requested a parking ratio reduction from 1.75 to 1.50 per unit with the original rezoning request package. That request was denied, and a stipulation was added during the BOC vote requiring the developer to secure a parking easement with an adjacent property owner to utilize offsite parking in an effort to supplement onsite parking planned for the development. Once the applicant revised the site plan after zoning was approved, applicant was able to exceed the required 1.75 spaces per unit on-site.

Request: The site plan is able to accommodate 334 parking spaces and meet the required parking ratio of 1.75/unit, thus resulting in no need for additional parking. Can the parking easement requirement be waived?

DECEMBER 21, 2021 ZONING HEARING
"OTHER BUSINESS"
COMMISSION DISTRICT 4

Min. Bk. 94 Petition No. OB-72
Doc. Type Cobb DOT and Fire Dept
Comments and recommendations
Meeting Date 12-21-21

ITEM OB-72

PURPOSE

To consider a stipulation amendment for Chuck Young regarding rezoning application Z-28 of 2021 in Land Lots 31 and 32 of the 17th District. Located on the south side of White Boulevard, on the west side of Floyd Road, at the terminus of Nickajack Road, and at the terminus of Green Valley Road (4900 Floyd Road).

BACKGROUND

The property was rezoned to RM-12 on September 21, 2021 for an apartment development. The applicant would like to remove one stipulation and add two stipulations. First, the applicant would like to remove the stipulation that requires a cross parking easement with the adjoining property to provide required parking. This is being requested because the applicant has revised the site plan and all the required parking is now on their property. Second, the applicant would like to add two stipulations to the project, which are increasing the impervious surface from 45% to 60% and increasing the building height from 40-feet to 46-feet. If approved, all previous stipulations would remain in effect.

STAFF COMMENTS

Stormwater Management: Stormwater Management has no issue with the impervious coverage at 60%. This would be less than the original NRC Zoning with an impervious coverage of 70%.

Cobb DOT: See attached comments.

Fire Department: The owner/tenant maintain the sole responsibility for the design and correcting all errors, omissions, problems, and code (if any) exposed during construction AFTER authorization by Cobb County. The Cobb County Fire Marshal's Office has no objections to OB-72. **Josh Davis** (770) 528-8161
josh.davis@cobbcounty.org.

RECOMMENDATION

The Board of Commissioners conduct a Public Hearing and consider the proposed stipulation amendment.

ATTACHMENTS

Other Business application.

Cobb DOT recommendations

1. Recommend retaining the following DOT recommendations from Z-28-2021:
 - a. Recommend curb, gutter, and sidewalk along the White Boulevard frontage;
 - b. Recommend tying into the existing curbing on Green Valley Road at the site entrance;
 - c. Recommend development driveway on White Boulevard have an offset of a minimum of 125 feet centerline to centerline from the LIDL and Hardee's driveways. If this recommendation cannot be achieved because of associated building impacts, recommend driveways remain on right side of building as shown in the site plan dated March 23, 2021; and,
 - d. Recommend applicant be required to meet all Cobb County Development Standards and Ordinances related to project improvements.

December 15, 2021

Min. Bk. 94 Petition No. O.B. 73
Doc. Type letter
Meeting Date 12-21-21

VIA EMAIL ONLY

Monique Sheffield, Cobb County Commissioner, District 4
100 Cherokee Street
Marietta, Georgia 30060

Re: Other Business Application of Habitat for Humanity of Northwest Metro Atlanta, Inc. (Z-65 of 2021), Cobb County, Georgia ("Project Site"). (OB-73 of 2021).

Dear Commissioner Sheffield:

Please allow this letter to serve as our request for amending stipulation #12 of Z-65 of 2021 as follows:

"Applicant to record deed restrictions with the sale of all lots to establish standards for future resales, condemnations of other loss of title ownership including:

- Right of first refusal provisions
- Repayment provisions if any property is resold in the first 7 years
- Said deed restrictions will be similar to attached sample dated 12-15-21"

Please feel free to contact Jessica or I if you have any questions.

Sincerely,

TAYLOR ENGLISH DECISIONS, LLC



Rob Hosack
rhosack@tedecisions.com

cc: Jessica Gill, CEO-Habitat for Humanity
Bill Rowling, County Attorney

Sample Deed Restrictions
December 15, 2021

CUTLER & SCHULMAN, P.C.
1600 South Cobb Drive, Suite 100
Marietta, Georgia 30060
770-429-9242
Our File No. &*V6&

PIN #: &*V1992&

Limited Warranty Deed

STATE OF GEORGIA
COUNTY OF COBB

THIS INDENTURE, Made the &*v17& day of &*v16&, in the year &*v959&, between **Habitat for Humanity of Northwest Metro Atlanta, Inc.** of the County of Cobb, and the State of Georgia, as party or parties of the first part, hereinafter called Grantor, and &*v36& as party or parties of the second part, hereinafter called Grantee (the words "Grantor" and "Grantee" to include their respective heirs, successors and assigns where the context requires or permits).

WITNESSETH that: Grantor, for and in consideration of the sum of TEN AND 00/100 (\$10.00) Dollars and other good and valuable considerations in hand paid at and before the sealing and delivery of these presents, the receipt whereof is hereby acknowledged, has granted, bargained, sold, aliened, conveyed and confirmed, and by these presents does grant, bargain, sell, alien, convey and confirm unto the said Grantee,

For legal description see Exhibit "A" attached hereto and incorporated herein by reference.

This conveyance is given subject to all easements and restrictions of record. ** DELETE BELOW IF NOT** If applicable, including the Declaration of Covenants, Conditions and Restrictions for _____, dated _____, recorded in Deed Book _____ Page _____ Cobb County, Georgia records, as may be subsequently amended.

This conveyance is also given subject to a Right of First Refusal in favor of Habitat for Humanity of Northwest Metro Atlanta, Inc., which is attached hereto as Exhibit "B" and incorporated herein by reference. Grantor does not convey with representation or warranty.

For Retained Interest In Bona Fide Net Sales Proceeds description see Exhibit "C" attached hereto and incorporated herein by reference.

This conveyance is also given subject to a Retained Interest In Bona Fide Net Sales Proceeds, which is attached hereto as Exhibit "C" and incorporated herein by reference. Grantor does not convey with representation or warranty.

TO HAVE AND TO HOLD the said tract or parcel of land, with all and singular the rights, members and appurtenances thereof, to the same being, belonging, or in anywise appertaining, to the only proper use, benefit and behoof of the said Grantee forever in FEE SIMPLE.

AND THE SAID GRANTOR, for himself, his heirs, assigns, successors, executors and administrators will warrant and forever defend the right and title to the above-described property unto the said GRANTEE, his heirs and assigns against all the lawful claims of all persons claiming by through or under the said GRANTOR, but not otherwise.

IN WITNESS WHEREOF, the Grantor has signed and sealed this deed, the day and year above written.

Signed, sealed and delivered in the presence of:

**Habitat for Humanity of Northwest Metro Atlanta,
Inc.**

Witness

_____(SEAL)
Jessica Gill, President & CEO

Notary Public

Petition No. OB-73
Meeting Date 12-21-21
Continued

Exhibit "A"
Legal Description

&*v941&

EXHIBIT "B"

RIGHT OF FIRST REFUSAL

This conveyance is also made subject to the following covenant running with the land, to-wit:

Should the Grantees herein or their heirs, successors or assigns desire to sell or convey the Property within fifteen (15) years from the date hereof, the Grantees shall first offer the Property to the Grantor, or its successor in interest in the following manner:

The Grantees or their heirs shall send written notice to HABITAT FOR HUMANITY OF NORTHWEST METRO ATLANTA, INC., or its successors in interest, by certified mail, return receipt requested. The notice letter shall state that the Grantees have received an offer to purchase the Property, the name and address of the Person or Entity desiring to purchase the Property, the sales price and terms of payment for the sale. The written notice letter shall also contain an offer to sell the Property back to HABITAT FOR HUMANITY OF NORTHWEST METRO ATLANTA, INC., or its successors in interest, upon the terms and conditions set forth in the offer.

For a period of thirty (30) days after its receipt of the notice, HABITAT FOR HUMANITY OF NORTHWEST METRO ATLANTA, INC., or its successors in interest, shall have the right to purchase the Property in accordance with the terms and conditions of the offer. If HABITAT FOR HUMANITY OF NORTHWEST METRO ATLANTA, INC., or its successors in interest, fails to exercise the right of first refusal, Grantee may convey the Property to the party making the first offer, but only at the price and upon the terms specified in the notice to Habitat.

The right of first refusal shall expire and be of no further force and effect fifteen (15) calendar years from the date hereof.

Exhibit "C"

RETAINED INTEREST IN BONA FIDE NET SALES PROCEEDS.

Unless otherwise stated in Section 2 below, Grantor hereby retains the following rights in the Property for a period of seven (7) years from the Effective Date in the event a "Sale" (as defined herein) occurs by the Grantee for all or any portion of the Property according to the following terms and conditions:

- 2.1 **Bona Fide Net Sales Proceeds.** For the purposes of this Section 2, the term "Bona Fide Net Sales Proceeds" shall mean the fill!!! of (i) the contract sales price between Grantee and the proposed buyer for the Property, minus (ii) the amounts due on the Closing Date on any Senior Liens and on Grantee's Other Liens, minus (iii) the amount of any reasonable and customary closing expenses paid by Grantee in connection with the sale, each of (i) through (iii) as determined by Grantor in its sole discretion. If any part of the contract sales price for the Property is paid to Grantee in the form of a promissory note, or anything of value other than lawful money of the United States, Grantor is hereby authorized to assign in its sole discretion a fair market value thereto. Grantee agrees to accept such thing of value at such assigned fair market value as part of Grantee's equity, or to allow it to be retained by Grantor as part of Grantor's retained interest in the Bona Fide Net Sales Proceeds, as Grantor in its sole discretion may determine.
- 2.2 **Closing Date.** For the purposes of this Section 2, the term "Closing Date" shall mean the date of closing of Grantee's sale of the Property to Grantee's buyer, or if there is no formal closing, the date on which title is conveyed in part or in whole, voluntarily or involuntarily, to any other person or entity, including but not limited to Grantor.
- 2.3 **Senior Liens.** For the purposes of this Section 2, the term "Senior Liens" shall mean those outstanding, unsatisfied Deeds to Secure Debt executed by Grantee in connection with the purchase of the Property from Grantor, including but not limited to the Purchase Money Deed to Secure Debt in favor of Grantor, Subordinate Deed to Secure Debt in favor of Cobb County and the Second Deed to Secure Debt in favor of CDBG (HUD).
- 2.4 **Grantee's Other Liens.** For the purposes of this Section 2 "Grantee's Other Liens" shall mean any unpaid liens or other charges that exist against the Property since the Effective Date whether allowed by Grantor or not. Such liens may include, for example, liens for money borrowed to finance additional improvements, home equity lines of credit, and other voluntary liens; liens for unpaid taxes, special assessments, water, sewer, and other utility charges, mechanics' liens, and other liens and charges arising by operation of law; and judgment or other creditor's liens, any of which may affect the amount of the Bona Fide Net Sales Proceeds. Grantor is hereby authorized to determine, in its sole discretion, the amount by which these liens or charges reduce the Bona Fide Net Resale Proceeds for the Property, and to reduce the amount payable to Grantee as Grantee's equity by an equal amount.

- 2.5 Grantee's Equity. So long as the Bona Fide Net Sales Proceeds is a positive number, for purposes of this Section 2, "Grantee's Equity" shall be the sum of (i) Grantee's principal payments made on Grantee's Senior Liens up to the Closing Date of any Voluntary Sale, plus (ii) the cost of any improvements actually made by Grantee to the Property, at its own expense, provided that such improvements and the cost thereof shall have been approved in writing by Grantor. Grantee shall be entitled to Grantee's Equity from the Bona Fide Net Sales Proceeds prior to the determination of shared Bona Fide Net Sales Proceeds as set out in Section 2.9. Grantee shall not be entitled to Grantee's Equity in the event of an Involuntary Sale.
- 2.6 Other Definitions. For the purposes of this Section 2, "Voluntary Sale" shall mean any bona fide sale by Grantee to any third person (meaning anyone not a party to this Limited Warranty Deed) for value. Any transfer for less than fair market value will also constitute a Voluntary Sale. For purposes of this Section 2, "Involuntary Sale" shall mean a nonjudicial foreclosure of the Property pursuant to either the Purchase Money Deed to Secure Debt executed by Grantee on today's date and/or the Subordinate Deed to Secure Debt executed by Grantee on today's date and/or the Third Deed to Secure Debt executed by Grantee on today's date, or any loss of title ownership of the Property by Grantee by judicial or nonjudicial means. For purposes of this Section 2, "Condemnation" shall mean any action by a condemning authority under the laws of the State of Georgia or of the United States resulting in the partial or total loss of any part of the Property and any payment of value therefore known also as "Condemnation Proceeds," which shall have the same meaning as "contract sales price" in the definition of Bona Fide Net Sales Proceeds as defined in paragraph 2.1 above. Grantee authorizes Grantor to determine, in its sole discretion, whether or on what conditions a transfer of the Property, or an interest in the Property, upon the death of Grantee, or upon the divorce, legal separation, or legal incapacity of a Grantee, constitutes a Voluntary Sale for purposes of this Limited Warranty Deed. Grantee further authorizes Grantor to determine, in its sole discretion, whether a transfer of a portion of the Property, or a partial interest therein, for any other reason has an effect on the value of Grantor's interest to be considered a Voluntary Sale for purposes of this Limited Warranty Deed.
- 2.7 Other Proceeds. "Proceeds" from any sale under power (nonjudicial foreclosure sale) shall have the same meaning as "contract sales price" in the definition of Bona Fide Net Sales Proceeds. Any payment to Grantee by any person or entity, including but not limited to Grantor, as consideration for value for the conveyance of all or any portion of the Property shall have the same meaning as "contract sales price" in the definition of Bona Fide Net Sales Proceeds.
- 2.8 Retention Period. For purposes of this Section 2 "Retention Period" shall mean the U (7) year period following the Effective Date in which Grantor retains the rights to share in Grantee's Bona Fide Net Sales Proceeds upon the occurrence of any triggering event for such sharing as described herein.

- 2.9 Determination of Grantor's Interest in Bona Fide Net Sales Proceeds. Under the terms of the Purchase Money Promissory Note, Purchase Money Deed to Secure Debt, Promissory Note to Cobb County, Subordinate Deed to Secure Debt, Self-Amortizing Loan Note Secured by Third Deed to Secure Debt and the Third Deed to Secure Debt executed by Grantee of even date herewith (the "Loan Documents"), Grantee must occupy the Property as Grantee's principal place of residence as provided in the Loan Documents. For the next seven (7) years following the Effective Date, Grantee agrees that if a Voluntary Sale, Involuntary Sale, Condemnation or other loss of title ownership occurs (referred to as "Sale" in the scale below) which generates Bona Fide Net Sales Proceeds, as defined in this Section 2, then Grantee shall pay to Grantor a portion of those Bona Fide Net Sales Proceeds as follows with any amounts remaining going to Grantee as Grantee's equity in the Property:

<u>Sale Occurs During Year</u>	<u>Grantee 's Share of Net Sales Proceeds</u>	<u>Grantor's Share of Net Sales Proceeds</u>
1	0%	100%
2	15%	85%
3	30%	70%
4	45%	55%
5	60%	40%
6	75%	25%
7 and after	100%	0%

If a "Sale" as defined above occurs during the Retention Period, then the following conditions must be met:

Notice must be furnished to Grantor at least fifteen (15) days prior to any such Sale of the Property occurring prior to the end of the fifteen year Retention Period and any amount due to Grantor shall be repaid to Grantor out of any Bona Fide Net Sales Proceeds as defined above at the time of such sale. The obligation to pay the above amounts shall terminate *after* any foreclosure provided said amounts owing to Grantor have been satisfied out of any Bona Fide Net Sales Proceeds generated by any foreclosure sale. Grantee will mail, certified mail, return receipt requested, or deliver notice of the proposed sale and a copy of the sales contract to Grantor to be received at least 15 calendar days before the proposed Closing Date, at the following address: 1625 Spring Rd , S.E., Symrna, Georgia 30080.

- 2.1.0 Release Upon Sale. Upon the Sale by Grantee of all or any portion of the Property, and the receipt by Grantor of its share of the Bona Fide Net Sales Proceeds derived from such Sale, such portion of the Property shall be released from this retention of rights and, as to such portion of the Property so released, this retention of rights shall be of no further force or effect. Such release shall operate automatically upon the receipt by Grantor of its share of the Bona Fide Net Sales Proceeds from such Sale. In such event Grantor shall

execute and deliver to Grantee a Quitclaim Deed releasing any claims it may have in and to such portion of the Property pursuant to this section, but the actual execution and delivery of such Quitclaim Deed shall not be a pre-condition to the effectiveness of the release of such portion of the Property provided for in this Section 2.8.

SECTION 3. NO PARTNERSHIP OR JOINT VENTURE.

This Deed is not intended, nor shall it be deemed or construed, to create a partnership or joint venture between Grantor and Grantee, or to make Grantor in any way responsible for the debts or losses of Grantee.

SECTION 4. CONSIDERATION.

Grantee acknowledges that Grantor is a nonprofit affordable-housing developer that sells homes on a no-profit basis, and that the fair market value of the Property conveyed by Grantor to Grantee is substantially greater than its selling price. Accordingly, as additional consideration to Grantor for the conveyance of the Property, Grantee agrees that for a period of seven (7) years beginning on the Effective Date, Grantee shall pay to Grantor all or a portion of the "Bona Fide Net Sales Proceeds" as provided by the terms and conditions stated herein that are generated from any Voluntary Sale, Involuntary Sale, Condemnation or other event causing Grantee to be relieved of title ownership of the Property. Grantee has executed this deed, and has accepted the Property subject to the reservations, restrictions, and rights contained herein, in consideration of the conveyance of the Property by Grantor to Grantee and as an inducement to Grantor so to convey the Property to Grantee.

SECTION 5. SUCCESSORS AND ASSIGNS.

This Deed shall be binding upon Grantee and its successors and assigns and shall run with title to and constitute a burden upon the Property. No person or entity other than Grantor or the express assignee of Grantor's rights hereunder shall be entitled to rely upon or enforce the provisions of this Deed or to receive any benefit of the enforcement of this Deed or any provision hereof.

SECTION 6. GOVERNING LAW.

This Deed shall be construed, interpreted and enforced in accordance with the laws of the State of Georgia.

SIGNATURES ON NEXT PAGE

Petition No. 08-73
Meeting Date 12-21-21
Continued

IN WITNESS WHEREOF Grantor and Grantee have signed and sealed this Deed the day, month and year first above written.

Signed, sealed and delivered in the presence of:

GRANTOR:

Habitat for Humanity of Northwest Metro
Atlanta, Inc.

Unofficial Witness

By: _____

Notary Public

Jessica Gill
President & CEO

(Notary Seal)

(Corporate Seal)

Signed, sealed and delivered in the presence of:

GRANTEE:

Unofficial Witness

&*v36&

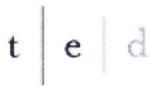
Notary Public

(Notary Seal)

Rowling, H. William

From: Rob Hosack <rhosack@tedecisions.com>
Sent: Thursday, December 16, 2021 3:25 PM
To: Rowling, H. William
Cc: Sheffield, Monique; Pederson, John; Jessica Gill; Rob Hosack
Subject: RE: Attached Stip Letter for OB-73
Attachments: Revised Exhibit B for Stipulation Letter 12-16-21.pdf

Good afternoon everyone, please see attached Revised Exhibit B. Thanks for the feedback. Rob



Rob Hosack

Taylor English Decisions | 1600 Parkwood Circle, Suite 200, Atlanta, GA 30339
P: 678.336.7146 | M: 770.235.5662 | rhosack@tedecisions.com
[Website](#) | [vCard](#)



James Magazine Number One Governmental Affairs Firm

1

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From: Rob Hosack <rhosack@tedecisions.com>
Sent: Thursday, December 16, 2021 1:05 PM
To: Rowling, H. William <H.William.Rowling@cobbcounty.org>
Cc: Sheffield, Monique <monique.sheffield@cobbcounty.org>; Pederson, John <John.Pederson@cobbcounty.org>; Jessica Gill <jgill@habitatnwma.org>
Subject: Re: Attached Stip Letter for OB-73

Workin on it Counselor, thanks for the call sir. Rob

Rob Hosack
Taylor English Decisions | 1600 Parkwood Circle, Suite 200, Atlanta, GA 30339
P: 678.336.7146 M: 770.235.5662
| rhosack@tedecisions.com
www.tedecisions.com

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2

On Dec 16, 2021, at 12:07 PM, Rowling, H. William <H.William.Rowling@cobbcounty.org> wrote:

Rob – Thank you for taking my call a few minutes ago.

Petition No. OB-73
Meeting Date 12-21-21
Continued

As we discussed, Commissioner Sheffield is concerned that the Notice provision in Exhibit “B” to the Limited Warranty Deed does not include Notice to Habitat for a foreclosure. It speaks to a sell or conveyance but is silent as to providing Notice in the event of a pending foreclosure. Consequently, she asks that language be included in the Warranty Deed exhibits to require the Grantee to notify Habitat of a foreclosure.

She welcomes suggested language. Thanks.

H. WILLIAM ROWLING, JR.
COUNTY ATTORNEY
COBB COUNTY ATTORNEY'S OFFICE
100 CHEROKEE STREET, SUITE 350
MARIETTA, GEORGIA 30090-7003
VOICE 770.528.4003
FAX 770.528.4010
E-MAIL [BROWLING@COBBCOUNTY.ORG](mailto: Browling@CobbCounty.org)

3

Confidentiality & Privilege Notice

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From: Rob Hosack <rhosack@tedecisions.com>
Sent: Wednesday, December 15, 2021 4:22 PM
To: Sheffield, Monique <Monique.Sheffield@cobbcounty.org>
Cc: Rowling, H. William <H.William.Rowling@cobbcounty.org>; Pederson, John <John.Pederson@cobbcounty.org>; Jessica Gill <jgill@habitatnwma.org>
Subject: Attached Stip Letter for OB-73

Good afternoon everyone, please see attached stipulation letter for OB-73.

Thanks for your help, have a great day. Rob.

Rob Hosack

Taylor English Decisions | 1600 Parkwood Circle, Suite 200, Atlanta, GA 30339

P: 678.336.7146 M: 770.235.5662

| rhosack@tedecisions.com

www.tedecisions.com

Petition No. OB-73
Meeting Date 12-21-21
Continued

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CAUTION: This email originated outside Cobb County Government. Please exercise caution when opening links/attachments in this email .

EXHIBIT "B"

RIGHT OF FIRST REFUSAL

This conveyance is also made subject to the following covenant running with the land, to-wit:

Should the Grantees herein or their heirs, successors or assigns desire to sell or convey the Property, or have been notified of a potential foreclosure, within fifteen (15) years from the date hereof, the Grantees shall first offer the Property to the Grantor, or its successor in interest in the following manner:

The Grantees or their heirs shall send written notice to HABITAT FOR HUMANITY OF NORTHWEST METRO ATLANTA, INC., or its successors in interest, by certified mail, return receipt requested. The notice letter shall state that the Grantees have received an offer to purchase the Property, the name and address of the Person or Entity desiring to purchase the Property, the sales price and terms of payment for the sale. The written notice letter shall also contain an offer to sell the Property back to HABITAT FOR HUMANITY OF NORTHWEST METRO ATLANTA, INC., or its successors in interest, upon the terms and conditions set forth in the offer. In the event of a potential foreclosure, the same written notice provisions shall apply.

For a period of thirty (30) days after its receipt of the notice, HABITAT FOR HUMANITY OF NORTHWEST METRO ATLANTA, INC., or its successors in interest, shall have the right to purchase the Property in accordance with the terms and conditions of the offer or an amount necessary to satisfy a potential foreclosure. If HABITAT FOR HUMANITY OF NORTHWEST METRO ATLANTA, INC., or its successors in interest, fails to exercise the right of first refusal, Grantee may convey the Property to the party making the first offer, but only at the price and upon the terms specified in the notice to Habitat.

The right of first refusal shall expire and be of no further force and effect fifteen (15) calendar years from the date hereof.

EXHIBIT "B" - ATTACHMENT TO APPLICATION FOR "OTHER BUSINESS"
(Stipulation Amendment)

Application No.: OB-_____ (2021)
Hearing Date: December 21, 2021

Applicant/Titleholder: WHOY Associates, LLC

BEFORE THE COBB COUNTY BOARD OF COMMISSIONERS

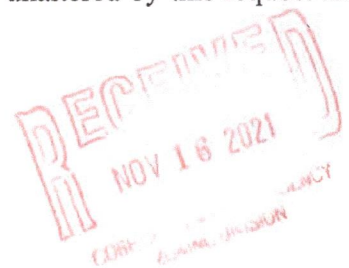
Applicant and Property Owner, WHOY Associates, LLC (hereinafter collectively "Applicant"), files this Application for "Other Business" requesting the amendment of a stipulation placed upon Applicant's property located at 1111 Chastain Road, Land Lot 132, 20th District, 2nd Section, Cobb County, Georgia (hereinafter "Property" or "Subject Property"). On May 16, 2000, the Cobb County Board of Commissioners approved rezoning of the Property to the Neighborhood Retail Commercial ("NRC") zoning category, for the purpose of a retail bookstore, and specifically enumerated the following stipulation within the final minutes reflecting approval:

- (4) [S]pecial declaration limiting the use of this site to bookstore or general office supply only.

Applicant seeks the amendment of this stipulation to remove the limitation of the Property's use for either a bookstore or general office supply; but rather, for uses allowed under the existing Neighborhood Retail Commercial zoning classification.

The proposed stipulation amendment, as set forth above, in no way adversely impacts or affects the approved rezoning or the Property. In allowing the amended stipulation, the Property could be utilized to its fullest potential by a viable business, thus generating additional tax revenue for Cobb County. If the amended stipulation is approved, as submitted in this Application, the amendment shall become an additional part of the final rezoning and shall be binding upon the Subject Property going forward.

The balance and remainder of the stipulations and conditions specifically enumerated in the official minutes, and any attachments thereto, of the Board of Commissioners Zoning Hearing held on May 16, 2000, or any District Commissioner approvals, applicable to the Subject Property are unaltered by this request and shall remain in full force and effect.



List of Prohibited Uses – OB-74-2022

The Owner agrees to prohibit the following uses of the Subject Property:

- a. Automotive storage yards and wrecker services;
- b. Automotive paint and body shop;
- c. Billiards and pool halls;
- d. Cemeteries;
- e. Circuses and carnivals;
- f. Crematories, human or animal;
- g. Dry cleaning plants;
- h. Farm equipment repair establishments;
- i. Flea markets;
- j. Funeral homes;
- k. Heavy manufacturing establishments;
- l. Light manufacturing establishments;
- m. Massage parlor;
- n. Mining;
- o. Nightclubs;
- p. Pawn shops;
- q. Sexually oriented businesses;
- r. Tattoo parlor; and
- S. Any store selling drug paraphernalia, (including CDB stores)

FILED WITH COUNTY CLERK THIS 21st DAY
OF December 20 21 BY JoAnn Birrell
RE OB-74 - List of Prohibited Uses
Rae L Stone
COUNTY CLERK/ASST. COUNTY CLERK/DEPUTY COUNTY CLERK
COBB COUNTY, GEORGIA

**DECEMBER 21, 2021 ZONING HEARING
"OTHER BUSINESS"
COMMISSION DISTRICT 3**

Min. Bk. 94 Petition No. OB-74
Doc. Type Fire Dept comments
and recommendations
Meeting Date 12-21-21

ITEM OB-74

PURPOSE

To consider a stipulation amendment for WHOY Associates, LLC regarding rezoning application Z-62 of 2000 in Land Lot 132 of the 20th District. Located at the southeast side of Chastain Road, north of Big Shanty Road (1111 Chastain Road).

BACKGROUND

The property was rezoned to Neighborhood Retail Commercial (NRC) in 2000 subject to many stipulations. One of the zoning stipulations called for this property to be used as a bookstore or general office supply use only. This was done due to the property's proximity to Kennesaw State University, and because there was not a lot of commercial development out here at that time. Since then, more retail and restaurants uses have been developed. The applicant would like to remove the use restriction in order to use the property for other NRC permitted uses. If approved, all previous stipulations would remain in effect.

STAFF COMMENTS

Fire Department: The owner/tenant maintain the sole responsibility for the design and correcting all errors, omissions, problems, and code (if any) exposed during construction AFTER authorization by Cobb County. Plans must be submitted to the Cobb County Fire Marshal's Office to initiate the Certificate of Occupancy process.

RECOMMENDATION

The Board of Commissioners conduct a Public Hearing and consider the proposed stipulation amendment.

ATTACHMENT

Other Business application.